Attachment 3

Comment letters received after publication of the EIR

Water Resources Advisory Committee

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May 27, 2015

Honorable Debbie Arnold, Chairperson
San Luis Obispo County Board of Supervisors
County Government Center
1055 Monterey Street, Room D-430
San Luis Obispo, CA 93408

Subject: Water Resources Advisory Committee (WRAC) Comments on the Water Resources component of the Laetitia Agricultural Cluster Subdivision Tentative Tract Map and Conditional Use Permit Final Environment Impact Report (FEIR)

Honorable Madams and Sirs,

The purpose of this letter is to transmit, for your consideration, the WRAC comments on the Water Resources component of the Laetitia Agricultural Cluster Subdivision Tentative Tract Map and Conditional Use Permit FEIR.

On April 1, 2015, WRAC formed an ad hoc subcommittee, whose purpose was to review and comment on the water resources section of the FEIR. The FEIR subcommittee members included Member Mary Lucey (Oceano CSD), Member Alternate Patrick Williams (Agriculture At-Large), Member Alternate Stephanie Wald (Environment At-Large) and Member Alternate David Chipping (Environment At-Large), who served as chair of the subcommittee.

Previously, WRAC also formed a subcommittee in 2013 to review the water related resources in the Revised Recirculated Draft Environmental Impact Report (RRDEIR) for the Laetitia Agricultural Cluster development. On August 7, 2013, WRAC reviewed ad approved the subcommittee report and voted to submit the comments to your Board.

The water resource issues of concern identified in response to the 2013 RRDEIR have been addressed in this FEIR. The subcommittee used those issues as the basis for reviewing the FEIR. Among issues addressed by the subcommittee were agricultural water demand, impacts to the Northern Cities Management Area, impacts related to domestic supply wells configuration changes, water demand requirements dependent upon recharge outside the project boundary and unresolved surface hydrology issues.

Purpose of the Committee:

To advise the County Board of Supervisors concerning all policy decisions relating to the water resources of the SLO County Flood Control & Water Conservation District. To recommend to the Board specific water resource programs. To recommend methods of financing water resource programs.

Excerpts from WRAC Bylaws dated 8/28/2012

On May 6, 2015, the WRAC reviewed the ad hoc subcommittee Laetitia FEIR report. By a unanimous vote with 2 abstentions (18-0-2), WRAC approved the report for submittal to your Honorable Board.

Respectfully submitted,

Linda Chipping
WRAC Chairperson

Attachment: WRAC Ad Hoc Subcommittee Review and Comments on the Final Environmental Impact Report (FEIR), Laetitia Agricultural Cluster Subdivision Tentative Tract Map and Conditional Use Permit SUB2003-00001 (TRACT 2606) SCH#2005041094

cc: San Luis Obispo County Board of Supervisors, All Districts
San Luis Obispo County Planning Commission
Mr. Brian Pedrotti, Department of Planning and Building

WRAC Ad Hoc Subcommittee Review and Comments on the Final Environmental Impact Report (FEIR), Laetitia Agricultural Cluster Subdivision Tentative Tract Map and Conditional Use Permit SUB2003-00001 (TRACT 2606) SCH#2005041094

The Water Resources Advisory Committee (WRAC) provides the following comments and recommendations concerning the Final Environmental Impact Report (FEIR) for the Laetitia Agricultural Cluster Subdivision Tentative Tract Map and Conditional Use Permit SUB2003-00001 (Tract 2606) SCH# 2005041094. The subcommittee members included David Chipping, Patrick Williams, Mary Lucey and Stephanie Wald.

Introduction and Summary:

The conclusion reached by WRAC is the project should be denied on the basis of uncertainties regarding the long-term sustainability of the water supply. This determination is based on the project description, the responses to WRAC comments provided as input to the 2013 Revised Recirculated Draft EIR (RRDEIR), and other concerns. In regards to the FEIR, WRAC finds the analysis to be thorough and extensive, but long-term water sustainability for the project is not supported by that same information.

Responses to WRAC's comments to the RRDEIR and changes reflected in the FEIR are addressed herein. To better enable the reader to see how WRAC's conclusions were reached, this document follows the order in which the FEIR's "Responses To Comments" are presented. The FEIR's responses are identified as issues labeled WRAC(b)-1 through WRAC(b)-42. For convenience, the attached Appendix contains the entire FEIR response to WRAC(b)-1 through WRAC(b)-42.

The WRAC subcommittee has distilled the issues into sections labeled (A) through (J). At the end of each section, an underlined summary sentence states that the issue was either an item of concern that contributed to our recommendation for project.

The most significant hydrologic change to the project from its original introduction and the project now proposed is in well configuration. Wells 10, 11, 14 and 15 are now the sources for domestic supply, removing Wells 12 and 13 as they impact Los Berros Creek. All wells serving the proposed development are completed in bedrock.

(A) Equestrian Center.

<u>WRAC's comments on a proposed equestrian center [WRAC(b)-4 through (b)-7 comments] are no longer pertinent as the center has been removed from the project. If the applicant intends to develop this integrated part of the development at a later date, it would appear to be piecemealing as defined by CEQA.</u>

(B) Agricultural Water Demand

WRAC commented on agricultural irrigation demand calculations in the RRDEIR. The response to the comments is satisfactory and reflects a reasonable range of demand. There is some concern that climate change might result in longer periods of drought, which would increase irrigation demand, but WRAC concurs that the high demand of 1.3afy per acre is appropriate if there is no demand for countering winter frost. As sustained drought is likely under changing climate conditions, WRAC recommends the high demand usage rate be applied in any future projection.

WRAC supports the findings of the FEIR on this issue, but remains concerned that planned increases in agricultural demand, unregulated and permissible under California law, may have an incremental negative impact on the Northern Cities Management Area (NCMA), which is supplied in small part via Los Berros Creek and bedrock discharges. (note V.P.-35). We note the letter from Oceano CSD supporting import of supplemental water by Nipomo CSD stating that the basin is overtaxed.

(C) Impacts to Northern Cities Management Area (NCMA)

In further clarification of NCMA related issues, WRAC commented [WRAC(b)-11 & (b)-12] that Oceano is included in NCMA, and is party to the adjudicated judgment in the Stipulated Settlement concerning importation from the Santa Maria basin. Signatories are committed to preserve the water supply, and no new wells are permitted within NCMA. In response, the FEIR notes that the wells are not new and are outside of the NCMA, but recognizes that net losses to downstream discharge will impact NCMA. The FEIR then states that,

> "*The County concurs that adherence to Final EIR mitigation measure WAT/mm-9 (groundwater recharge) and WAT/mm-10 (implementation of low impact development design techniques), and compliance with current storm water regulations is required. Enhancement of groundwater recharge in bedrock aquifers is limited by the low bulk hydraulic conductivity of the bedrock (low ease with which the water moves through fractures). The effects of recharge would be localized*."

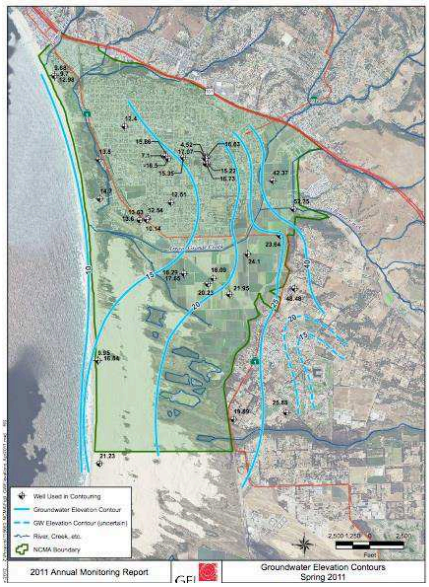
This response to WRAC(b)-11 shows that, as project described demand incorporates low impact design, and as recharge capability is 'limited' , a future deleterious impact to NCMA remains. The issue of removing Well 11 as mitigation against downstream impacts is discussed in the next section. WAT Impact 6, in spite of implementation of mitigations WAT/mm-1 through WAT/mm-8, is shown to have a residual negative impact on Los Berros Creek, and by inference, NCMA.

In summary, WRAC finds that this project will have a negative impact to water supply via Los Berros Creek into NCMA and that mitigation of this impact may be insufficient.

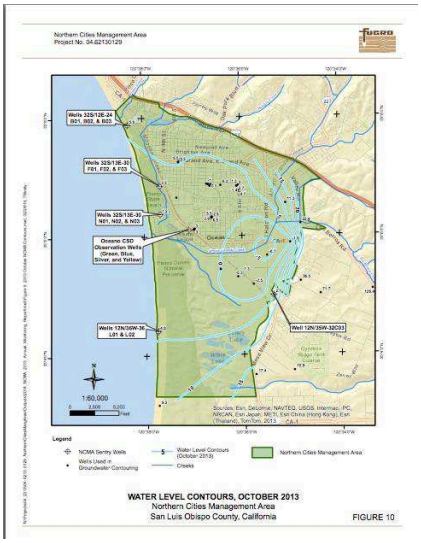
In further illustration of potential impacts to NCMA, WRAC submits a comment from a 2015 report to NCMA by Water Systems Consulting with two illustrative graphics. Note

that Los Berros Creek enters the NCMA just above the area of greatest drawdown.

> *"In addition, the 2013 NCMA Annual Report identified that groundwater elevations are highest in the eastern portion of the NCMA and drop to approximately 5 ft above MSL along the coastline. It also identified that there are pumping depressions within the NCMA associated with municipal and agricultural pumping. The area with lowest groundwater elevations occurred in the east - central part of the NCMA in the vicinity of, and south of, lower Arroyo Grande Creek. However, in late 2013 and throughout most of2014, groundwater levels within the NCMA monitoring wells have dropped to levels similar to those seen in 2008 and 2009. This drop in groundwater levels has occurred in spite of significantly reduced municipal groundwater pumping and increased conservation efforts. Additionally, a deepening pumping depression within the NMMA appears to have reduced or eliminated the groundwater divide between the NCMA and NMMA. With the loss of this divide there has been a reversal of groundwater gradients and the development of a landward gradient in the southern portion of the NCMA. This landward gradient creates conditions favorable for seawater intrusion in the NCMA and NMMA. In spite of the NCMA agencies' ongoing efforts to reduce their groundwater pumping to amounts well below the identified safe yield for the NCMA, groundwater levels have declined to levels that are similar to those observed in 2009, when seawater intrusion was detected in one of the NCMA TG's coastal monitoring wells. Given the decreased groundwater levels, the NCMA agencies are very concerned that seawater could intrude into the basin and impact the water quality of their groundwater supplies (Water Systems Consulting, 2015)."*



Groundwater contours in NCMA 2011



Groundwater contours in NCMA 2013

(D) Impacts related to domestic supply wells' configuration changes

WRAC (b)-13 comment supported the reconfiguration of domestic supply wells to Wells 10, 11, 14 & 15, removing Wells 11 and 12. It noted a possible hydraulic connection between Well 9 to the creek. The FEIR made a thorough response and noted Wells 11, 12 and 13 all showed a response concurrent to increased flow in Los Berros Creek. It noted that the response of Wells 9 and 10 might reflect conditions in a north-south trending drainage independent of Los Berros Creek. The discussion illustrates the general lack of knowledge of subsurface storage and connectivity within wells screened in bedrock, although the FEIR's discussion is a fair treatment of the issue.

On page V.P.-36, the FEIR notes the demonstrated impacts of Wells 10 and 11 on Los Berros Creek underflow and recommends water production limitations from August through November. Production would be shifted to Well 15 on the basis of its greatest available drawdown. WRAC notes that the periods when Wells 10 and 11 would be shut down are also likely to be high-summer periods of maximum demand. This puts a lot of pressure on the remaining wells, and is further discussed in the next section (E).

On page V.P.-37, the FEIR notes that agricultural Well 9 probably impacts Los Berros Creek and possibly domestic Wells 10 and 11, given connectivity between Los Berros Creek underflow and the underlying fracture permeability of the Obispo Formation, in which all three wells are completed. On p. V.P-53, the FEIR states the 22-26% increase in Laetitia water production will impact Los Berros Creek underflow through Wells 9, 10 and 11. Project specific mitigations of limiting seasonal pumping on Wells 10 and 11 fail to address the impacts of Well 9, which lies outside the scope of regulation as an existing agricultural well.

Therefore, WRAC finds that, while the reconfiguration of residential supply wells is an improvement to the project, the FEIR illustrates there is insufficient information to establish, with absolute certainty, the amount of hydraulic connectivity of wells to Los Berros Creek and of some agricultural wells to the domestic supply wells. WRAC is also concerned about impacts to Well 15 that might be induced by extensive drought-driven shut down of Wells 10 and 11.

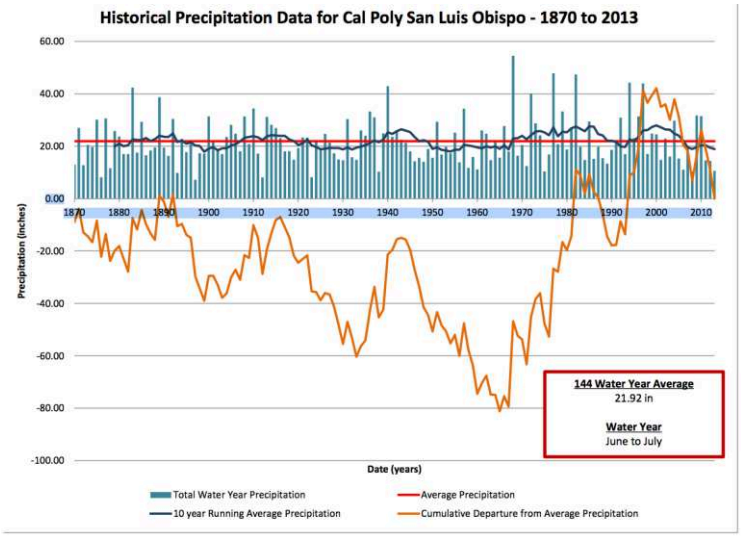
(E) Ability to provide Maximum Daily Demand (MDD)

On page V.P.-32 the FEIR discusses the ability of the proposed set of domestic wells to serve at MDD, calculated to be 46 gpm (Cleath-Harris Geologists 2010). Hydrologic analysis places a sustainable production rate of 54 gpm on the four domestic production wells, but the FEIR then calculates the production in the absence of Well 11 at 38.7 gpm. WRAC is concerned that (1) as wells failed to fully recover after pump tests, and (2) as there remains an issue that 46 gpm is very close to 54 gpm, and (3) as the effects of agricultural pumping of agricultural wells is not

considered, the extraction may not be sustainable during a period of severe drought. It is also troubling is the FEIR statement that the timeline for estimating the adequacy of supply is given as several decades, and not in perpetuity. The FEIR notes that fractured aquifers may have long term yields that are substantially smaller than short term yields. Yet, all hydrologic computations are based on the relatively short term pump test analyses.

WRAC does recognize that the updated agricultural well data in Attachment H-4 does show full recovery of most wells [see also FEIR response to WRAC(b)-16]. WRAC's comment that the wells illustrated a general condition of overdraft is therefore answered. WRAC agrees that no persistent overdraft is supported by these hydrographs.

The fact remains that all hydrographs showed declines up to 2010 and then all suddenly recovered. The older data can be seen in Attachment H-1a, Figure 18. The FEIR notes on page V.P.-3 that below average rainfall was experienced between 2002-2004 and 2007-2009, but was significantly higher than average (138%) after 2009 into 2011. The implication is that any sustained period of below average rainfall will result in a decline in well levels, but above average rainfall can recover the wells. This becomes a significant issue if long term climatic data is brought into the analysis. The Cal Poly historical precipitation data shown below indicates, the cumulative departures from average (orange line). This closely follows the Laetitia data for water levels for the years being discussed. Of concern are the very long periods in which cumulative declines persist (ie. 1915 to 1932 and 1944 to 1965). While the trend line eventually 'recovers' back to average, we have no idea how the Laetitia agricultural well field would perform under extended below-average periods.



Another issue is agricultural wells were all completed in the Obispo Formation, but the maximum pressure for supplying MDD will come from the Monterey Formation

shales of the completed Well-15.

WRAC finds too small a margin between calculated supply requirements and calculated sustainable well production rates. Any small error in these calculations would render the project unsustainable. WRAC also questions the assumption that a few years of decline will always be offset by a high rainfall year of recovery such as 2010.

(F) Long Term Sustainability of Residential Supply

The FEIR response to WRAC(b)-29 & (b)-30 is that the "comments are noted." WRAC's comments referred to the RRDEIR's Appendix H "Review of Well Testing and Sustainable Yield Assessment" and FEIR Appendix H1a. The original WRAC comments addressed the statement in the Geosyntec analysis of the Cleath & Harris well tests on Wells 10, 14, and 15. Geosyntec states:

> *"Continuing general decline of water levels in Wells 10, 14, and 15 during the three phases of pumping indicates that stable equilibrium groundwater conditions were not attained. Moreover, continued decline in water levels at three of the four wells during the Phase 3 pumping indicates that the 87 AF/Y sustainable yield estimated by CHG (July 2010) will not result in full recovery to "the Phase 1 operational static water levels," but will cause additional depletion of groundwater storage.*
>
> *The projections of downward water level trends exhibited during testing and the unknown time to possibly achieve equilibrium pumping conditions underscores that time frame is an important issue with respect to long-term viability of the wells to meet the proposed project demands. Climate change is predicted to result in rainfall occurring in fewer and more intense periods (DWR, 2003), which would likely result in more runoff, perhaps less recharge to groundwater, and possibly long-term decrease in base flow of creeks.*
>
> *With continued pumping at Phase 3 rates, an expanding cone of depression of groundwater elevation will result in capture of more groundwater and an equilibrium condition accompanied by stable water levels may be attained. However, equilibrium groundwater flow conditions may not occur for decades or longer (e.g. Alley et al., 1999; Bredehoeft, 2002; Bredehoeft and Durbin, 2009). Based on the water level records during Phase 3 pumping, if the linear trend in decreasing groundwater elevations continues at the rates observed during the Phase 3 testing, the water levels in the wells will likely drop below the top of the well screens-- within months in Wells 10 and 14, and within a few years in Well 15. (Geosyntec)*

In response to WRAC(b)-30, the FEIR states with probable accuracy that:

> *"Based on the long-term testing conducted, the pumping of groundwater from the*

four project wells can meet the project demand of 46.3 afy for decades, and the recommended reduction in pumping from Well 11 during the dry months would help minimize direct impact on Los Berros Creek. As reported, decreasing water levels in some of the wells at end of the Phase 3 testing indicates that depletion of storage of groundwater continued (following Phase 3 pumping rates, which are higher than proposed well yield rates). Accurate quantification of the depletion of storage is not possible, particularly for fractured bedrock aquifers for which the connected porosity (useable storage) is not well defined and would require use of monitoring wells located in the same fractured bedrock system as pumping wells.

WRAC does not dispute this statement, and does not find fault with the conclusion that the domestic well field may have a life of decades, but the long term sustainability has not been sufficiently quantified. WRAC, in taking note of the Geosyntec analysis, considers that the well tests do not sufficiently pass a benchmark by which the housing should be approved.

(G) Can aquifers in fractured bedrock suddenly fail?

WRAC(b)-31 comment concerned the sudden loss of production occurrence when a fracture aquifer is drained. The response was that Geosyntec concurred, but as well tests did not show an increase in drawdown with time, there was no evidence of an impermeable barrier being reached. WRAC does not find that this sufficiently puts the issue to rest. Provided water can enter the bottom of a well at a rate larger or equal to pumping rate, the well production may remain constant and stable until the fracture system is drained. By analogy, a partly open spigot at the bottom of a barrel filled with rubble and water could provide a steady flow even as the pressure head diminished. The FEIR comments that there is no evidence of impermeable barriers from the pump tests, but the barrel analogy still holds.

As noted elsewhere in WRAC comments, Wells 5 and 9 are completed in the Obispo Formation, and not the Monterey Formation. (see also page V.P.-36). Thus the response statement to WRAC(b)-13 does not have much pertinence to our concern on wells completed in the fractured Monterey Formation. The response was,

"*Moreover, as stated in the Geosyntec Report (2011), 11-year and 26- year records of groundwater production rates of 21 AF/Y reported by CHG (July 2010) for each of two irrigation wells (wells 5 and 9) at the Project Site supports that long-term groundwater production from wells completed in the fractured bedrock at the site is possible."*

WRAC remains concerned that domestic production from fractures in the Monterey Formation may suddenly be lost or severely reduced if the aquifer becomes depleted. Insufficient evidence has been presented that this cannot happen. WRAC is also concerned that sustainability estimates based on wells supplied mainly from the Obispo Formation should not be applied to wells supplied mainly from the Monterey Formation.

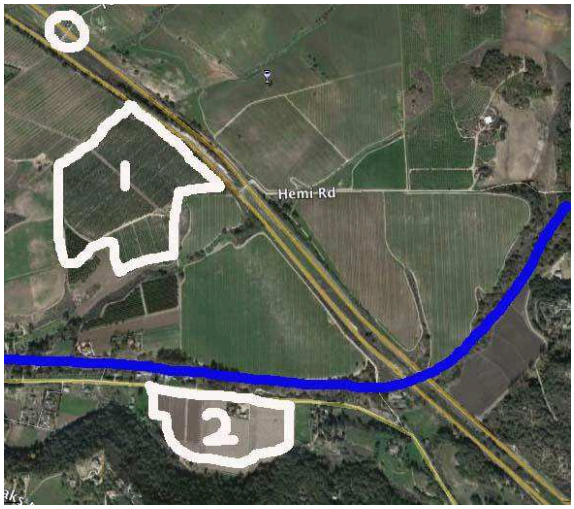
(H) Laetitia's water demand requires water be recharged from land beyond the Laetitia boundaries.

WRAC(b)-32 comment concerned the differences between on-site project recharge and on-site project demand. WRAC noted a projection that 5% of rainfall would be recharged on site was too high a number, and the FEIR notes Geosyntec concurs. The FEIR response is:

> *"Geosyntec agrees that local recharge of 5% of rainfall to groundwater is optimistically high. However, the recharge to the fractured bedrock aquifers is not limited to the Laetitia project land. Recharge to the deep fractured bedrock hundreds of feet below the ground surface, in which Wells 10, 14, and 15 are screened, is a slow diffuse process for which the influence of variation in rainfall is delayed and attenuated. The recharge occurs as leakage of groundwater from adjacent fractured bedrock to which seepage from local streams and percolation of rainfall contribute. A substantial portion of recharge to the fractured bedrock may occur where the fractured bedrock outcrops, which is unrelated to the both the Laetitia property and local watershed boundaries. In addition, the entire Los Berros Creek watershed, which is nearly 15 square miles in area, contributes to the local recharge of Well 11 because it is influenced by creek flow. While there are no current restrictions on well yields, mitigation is recommended that would restrict domestic well yields to avoid an adverse effect on Los Berros Creek.*

WRAC agrees that the recharge will largely be supplied from beyond the project's boundaries. Sustainability of the Laetitia project is dependent upon drawing in water from neighboring lands, which is currently legal as groundwater is not considered a 'commons'. However, the sustainability becomes dependent on future extraction by other landowners that might tap into the same fractured aquifer. This cannot be predicted with any accuracy. We have much evidence during the 2011-2015 drought that a property can be severely impacted by the action of neighbors.

By way of further illustration that water supply is already a significant issue on nearby agricultural lands, evidence of serious drought-induced impacts on nearby agricultural lands exists. For example, an avocado orchard directly across Highway 101 has been 'stumped' and productive row crop fields have been left in cover crops (see photograph). This would suggest that groundwater supply is insufficient.



Google Earth image with Hwy 101 entrance to Laetitia (circle), stumped avocado orchard (1) and fallowed row crop land (2) with main channel of Los Berros Creek (blue)

(I) WRAC concerns about the proposed Mutual Water Company, Home Owners Association, and Master Water Plan.

In WRAC(b)-33 & (b)-34, concerns were raised regarding compliance with a Master Water Plan by both the Homeowner's Association and Mutual Water Company. WRAC agrees that Mitigation WAT/mm-1, where the Company provided evidence of compliance to County agencies, should be sufficient to allay WRAC concerns.

WRAC (b)-35 was a concern that water demands of the agricultural operations and the residential project might conflict, as the Mutual Water Company will become a completely independent entity. The FEIR response acknowledges this is an issue:

> *"The commenter is correct that yields of agricultural irrigation wells would not be limited, unless otherwise determined by the County decision makers. The applicant has noted that agricultural practices would be adjusted in the event of a drought requiring such action. At this time, such action is voluntary, and the County is not currently imposing any restrictions on the agricultural operations. Any legal ramifications would be the burden of the applicant and subsequent owners. The EIR evaluates the impacts of the project on the environment, and speculation regarding potential conflicts due to changes to the project description (which are not proposed by the applicant) are outside of the scope of environmental analysis. Regardless, these concerns are noted for County decision makers' consideration.*

In WRAC(b)-36 & (b)-37, a concern was expressed that mitigation WAT/mm-1 (the creation of the Master Water Plan) not be implemented until Phase 3 of the project is completed. Issues such as the diversion of water from agricultural to residential use in the event of problems with the residential supply should be resolved, although WRAC agrees that the Drought Management Plan in WAT/mm-1 is a vitally important part of a Master Water Plan. The FREIR responded, "comment noted.'

WRAC(b)-38 expresses concerns about the degree to which mitigations WAT/mm2 through /mm6 would be implemented. This has been sufficiently answered as the FEIR notes, while policing of in-home issues is difficult, the net effect of compliance with the Master Water Plan has been addressed through required reporting to public agencies.

WRAC is concerned that separation of winery operations and a residential mutual water company will lead to future conflict over water supplies, and finds that, while drought mitigation plans for the company might be in place and are a positive contribution, the potential conflict would remain. WRAC also finds that the residential development might also put the existing agricultural operations at risk. WRAC recommends that, in the event that the project is approved, some water sharing between the entities be established.

(J) Issues concerning surface hydrology

WRAC(b)-39 notes there will be an increase in Net Peak Runoff Rate, as described in the RRDEIR. This violates SLO County regulations. The response to this comment accepts that this remains an issue that is currently unresolved. No on-site retention is currently proposed, and that more analysis is needed of 2, 5 and 10-year runoff events. WRAC concurs with the recommended changes to mitigation WAT/mm-9.

Similarly WRAC (b)-40 addresses sediment production and the lack of retention basins. These concerns were addressed by the changes to mitigation WAT/mm-9.

WRAC finds that peak runoff rates and sediment production violate SLO County regulations and have been insufficiently mitigated in the current project.

This concludes WRAC comments on the Laetitia Agricultural Cluster Subdivision Tentative Tract Map and Conditional Use Permit FEIR.

The following Appendix is a synopsis of WRAC issues introduced in the 2013 RRDEIR and the responses in the FEIR.

APPENDIX TO WRAC COMMENTS

The following contains computer screen shots of WRAC comments submitted in response to the RRDEIR and appear in the FEIR Responses to Comments. The responses were coded, and the response follows. They are ordered in the sequence and form the basis for the May 2015 WRAC comment letter.

WRAC Subcommittee Report on Laetitia Agricultural Cluster Subdivision Revised Recirculated Draft Environmental Impact Report (RRDEIR)

PREFACE

The Water Resources Advisory Committee has criteria under which comments are submitted in the CEQA process. These are: **WRAC(b)-2**

1- Does the project introduce a change in water policy (however small) that would affect the county elsewhere?

and/or

2- Is the project of such a scale that it would have a regional impact on the water supply?

Commentary on this proposed project concerns major policy issues regarding water management, criteria for judging long-term sustainability, stream and wildlife habitat alteration, the quality of data that is acceptable, and the degree to which an individual project can appropriate more water than originates on the project site. The proposed project introduces large numbers of houses into undeveloped or agricultural lands.

The scale of the proposed project is such that the original entity (Laetitia) and the new entity (a proposed Mutual Water Company serving a large number of users) might need to resolve issues concerning the use of a common water source, and that the proposed project might impact recharge into the water supplies of the 'Northern Cities Management Area (NCMA)', specifically Los Berros, Arroyo Grande and Oceano.

The WRAC Subcommittee met to review the Laetitia Agricultural Cluster Subdivision Revised Recirculated Draft Environmental Impact Report on July 18, 2013 at the SLO County Government Center from 1 pm to 3 pm. Subsequent discussions on the issues raised at this meeting were conducted via email leading to this report for consideration by the Water Resources Advisory Committee.

BACKGROUND

The Laetitia project subdivides twenty-one parcels (approx 1,910 acres) out of rural and agricultural lands of the Laetitia Ranch into 102 residential lots and 4 open space lots. In September 2008, the Laetitia DEIR, which listed possible significant, adverse, and unavoidable environmental impacts, was released for public comment. Of the ten impacts to water in the report, each was reduced to 'less than significant' with mitigation measures.

A subcommittee was formed to review the Laetitia DEIR. The members visited the project site and submitted their report to WRAC, which subsequently adopted that report on February 4, 2009. At the end of the DEIR public comment period, issues regarding water resources and applicant modifications to the project necessitated the need to re-circulate sections of the DEIR, resulting in a delay of the preparation of a Final EIR. **WRAC(b)-2 (cont'd)**

The revised DEIR (RDEIR) released April 26, 2012 consists of the sections of the DEIR that include water resources, biological resources, and two additional project alternatives. A second WRAC Subcommittee was formed on May 2, 2012 to review the RDEIR. While comments from WRAC were submitted, the comments were later discarded when the RDEIR was withdrawn and the RRDEIR later created to address water and wildlife issues following changes in the project description. WRAC has therefore formed another subcommittee to review and comment on the RRDEIR.

WRAC (b)-2 FEIR: COMMENTS NOTED

WRAC (b)-3 FEIR: refers to responses under WRAC (a)-1 THROUGH WRAC (a)-29

COMMENT CONCERNING DUDE RANCH AND EQUESTRIAN CENTER **WRAC(b)-4**

In the RRDEIR the proposed project has eliminated the equestrian center. The RRDEIR also addresses a future 'dude ranch' and states "*the dude ranch is included in this EIR as a future development proposal*".

As noted in the Final EIR (Chapter III.D.11 Project Description, Project Components, Future Development Proposal): "The applicant is not currently requesting a land use permit for the proposed dude ranch, and has not submitted grading or development plans". Limited information about the dude ranch is provided, including estimated areas and anticipated activities, and the analysis of potential effects is subsequently limited.

WRAC had submitted the following comment to the RDEIR, which it resubmits to the RRDEIR: **WRAC(b)-5**

The cumulative impact of a Dude Ranch is missing from the DEIR. The information provided on the Dude Ranch is inadequate to evaluate the cumulative impact on water demand. There is no way to determine if the needs of Dude Ranch will potentially exceed the water supply.

The County acknowledges that the information provided on the dude ranch is limited, and notes that "In the event the applicant moves forward with a land use permit request for a Dude Ranch, the subsequent additional water demand would be approximately 13 afy, to be provided by an onsite private well. Currently, a shallow (six feet deep) well in the Los Berros Creek channel provides water to a residence located on the parcel proposed for the Dude Ranch. Use of this well to provide water for the Dude Ranch may result in adverse effects to Los Berros Creek, including a reduction in base stream flow during dry months. At the time an application is submitted, project-specific information would be provided including identification of the well(s) proposed to provide water supply, and a project-specific analysis of hydrological impacts" (refer to EIR Section V.P.6 (Water Resources, Cumulative Impacts).

The derivation of the 13-acre feet water need is not described in either the DEIR or RDEIR. The Dude Ranch lists 75 units but does not elaborate on the livestock needs, include the number of staff or list amenities that would increase water demand. **WRAC(b)-6**

Please refer to response to comment WRAC(b)-5 above. The commenter correctly notes that the derivation of the 13 afy is not specified in the EIR. Based on review of information provided by the applicant, this amount is determined for a 75-room facility (9.8 afy), with a 150-person capacity restaurant (3 afy), and a beauty spa (0.2 afy) (Cleath and Associates 2008). This estimate does not include water demand for livestock; however, additional details including barns and other facilities would be required prior to consideration of a use permit for the dude ranch. The applicant is not including the dude ranch in the project application, and approval of the dude ranch will not be included as part of the County's action. The EIR is a disclosure and informational document, and provides a level of detail and level of analysis based on available information. This lack of detail does not impair the impact determination, because the County will not be adopting findings for potential impacts occurring as a result of the dude ranch (because it is not part of the requested discretionary action).

Los Berros Creek has been identified as being impacted by nitrate loading by the Regional Water Quality Control Board. Proposed project agricultural activities including the Dude Ranch would potentially exacerbate the loading. It is recommended that water quality protections be considered in project design to address potential increases in water quality impacts as regards nitrate loading in Los Berros Creek.

WRAC(b)-7

Please refer to EIR Section V.P.2 (Water Resources, Regulatory Setting, Los Berros Creek Subwatershed Total Maximum Daily Load). As described in the Final EIR: "Central Coast Water Board staff has identified sources of nitrate that are causing or contributing to water quality impairment (e.g., primarily irrigated agriculture and natural sources), has identified parties responsible for these sources, and has proposed load allocations necessary to achieve the TMDLs. The Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands in the Central Coast Region (Agricultural Order) is the existing regulatory mechanism to achieve the TMDLs. No new regulatory mechanisms were proposed to implement and achieve the TMDLs. Agricultural owners and operators are required to comply with the requirements outlined in the Agricultural Order, and subsequent revisions of the Order" (page V.P.-17). Therefore, non-discretionary actions such as agricultural production are subject to the Agricultural Order to address water quality impairment in Los Berros Creek. The Order states that: "This Order regulates discharges of waste from irrigated lands by requiring individuals subject to this Order to comply with the terms and conditions set forth herein to ensure that such discharges do not cause or contribute to the exceedance of any Regional, State, or Federal numeric or narrative water quality standard (hereafter referred to as exceedance of water quality standards) in waters of the State and of the United States" (Order No. R3-2012-0011). Water quality protections, within the framework of existing regulations related to agricultural uses, are appropriate as defined in the EIR.

The impacts of the Equestrian Center on Los Berros Creek were eliminated when it was removed from the project, but there is question that the creek may be similarly impacted by the Dude Ranch in both water quantity impacts and water quality impacts.

WRAC(b)-8

Based on information provided to date, there is not enough information to adequately analyze potential water quality impacts resulting from the dude ranch. Appropriately, the decision makers will not make findings regarding the dude ranch related to water supply or quality impacts, and will not consider approval or denial of the dude ranch prior to submittal of a land use application request and project-specific analysis pursuant to CEQA.

There has not been any change, as on page V.P.-35 the RRDEIR notes that Cleath (2008) had estimated 13 afy for the dude ranch, but that "*it is not included in the current project application*". The WRAC subcommittee believes future uses of groundwater should be considered in a calculation of safe sustainable yields.

WRAC(b)-9

Based on the EIR analysis, safe yield has been determined for each identified domestic well. The EIR notes that water supply for the dude ranch would be supplied by an onsite well, and that there is an existing residential well that draws from the Los Berros Creek channel (this well is not proposed to serve the proposed subdivision, but serves an existing residence). Based on known information regarding Los Berros Creek, the EIR states that "use of this well to provide water for the Dude Ranch may result in adverse effects to Los Berros Creek, including a reduction in base stream flow during dry months" (Final EIR Section V.P.6. Water Supply, Cumulative Effects). Further analysis would be required for the Dude Ranch project application based on project specific information, including a clear designation of the water source.

COMMENTS CONCERNING ESTIMATIONS OF ANNUAL RAINFALL AND USE IN WATER DEMAND CALCULATIONS

WRAC(b)-10

V.P.-3 The WRAC subcommittee agrees with the RRDEIR in assuming an average rainfall of about 17 inches. The amount and timing of rainfall is important in estimating irrigation requirements and expected well production. It is therefore important that irrigation requirements not be measured for a highly atypical year. The RRDEIR states that rainfall "*between July 2009 and March 2011 was 138 percent of average*", and this is supported by Appendix H, p.5 of letter to Scott from Thrupp and Gotberg, 18 April 2012. This letter references data from the Nipomo Mehlschau #38 gauge. For the 2010-2011 water year 28.95 inches were recorded while the average water year precipitation between 1920 and 2012 is 16.75 inches. The Mehlschau 2009-2010 water year yielded 21.84 inches.

Average annual production from the onsite irrigation wells was 161 afy between 1999 and 2003, which is approximately 0.26 afy/acre of irrigated vineyards (620 acres). As noted in the EIR, 208 af was pumped in 2011 (0.34 afy). Agricultural water usage is not regulated by the County; therefore, the EIR presents a reasonable range of agricultural water demand (refer to pages V.P.- 12-13), including estimates greater than documented amounts.

COMMENTS CONCERNING IMPACTS TO LOS BERROS CREEK

(1) INCREASED WATER DEMAND IN LOS BERROS CREEK WATERSHED

WRAC(b)-11

WRAC comments on the RDEIR stated:

The total water budget for the agricultural and residential uses produces a net increase in water use from 222.3 AFY to 280 AFY that will be reflected in a net reduction in outflow for the Los Berros Creek system. WRAC supports adherence to mitigation WAT/mm 10 (sic) in the project design, with a strong emphasis on the optimization of groundwater recharge to bedrock aquifers and the use of surface impoundment.

WRAC(b)-11 (cont'd)

V.P.-3 The RRDEIR notes that Los Berros Creek is in the Oceano Hydrologic Subarea and outside of the Santa Maria Groundwater Basin. The WRAC subcommittee notes that Oceano is included in "The Northern Cities Management Area" (NCMA). The Northern Cities were party, along with San Luis Obispo County to the Stipulated Settlement regarding the disposition of water originating in Santa Maria and being exported into San Luis Obispo County. The adjudicated judgment, which incorporated the stipulated settlement and made it binding on all stipulating parties, and the ongoing oversight of the court demonstrate that the signatories are committed to help preserve the water supply. The Settlement states that there will be no new wells in the Northern Cities Management Area, and only the County has the discretionary power to permit new (or replacement) wells outside the boundaries of the incorporated cities.

The County concurs that adherence to Final EIR mitigation measure WAT/mm-9 (groundwater recharge) and WAT/mm-10 (implementation of low impact development design techniques), and compliance with current stormwater regulations is required. Enhancement of groundwater recharge in bedrock aquifers is limited by the low bulk hydraulic conductivity of the bedrock (low ease with which the water moves through fractures). The effects of recharge would be localized. The proposed project wells are existing and are not located within the Northern Cities Management Area. The EIR and technical reports incorporated by reference (Cleath and Associates, Geosyntec) consider adverse effects including reduction in Los Berros Creek baseflow. Use of Well 11, which was determined to reduce baseflow in Los Berros Creek during drought conditions in the dry season, would be limited and restricted, allowing baseflow to recharge the Los Berros Creek alluvial basin downstream.

In a related issue, Oceano CSD in a letter to Nipomo CSD, dated April 24, 2013, state: **WRAC(b)-12**

For nearly 30 years, Oceano Community Services District has limited pumping from the Santa Maria Groundwater Basin so as to not exceed the basin's safe yield. However, continued growth on the Nipomo Mesa, which currently depends entirely on groundwater from the Santa Maria Groundwater Basin, has taxed the basin and contributed to a deepening groundwater depression underlying the Nipomo area that threatens the entire region

The WRAC subcommittee introduces this issue, which is not discussed in the RRDEIR, as it is clear that every inflow into the Arroyo Grande- Oceano watershed is important and that any diminution in the contribution from Los Berros Creek will be significant. Under the Stipulated Settlement the County has a commitment to help preserve the groundwater basin in the NCMA, which would be impaired if they approved an increase in non-ag water demand in Oceano's primary recharge zone.

The County concurs with the commenter that continued growth on the Nipomo Mesa has taxed the basin, and substantial evidence of this fact is present in numerous public documents and the Administrative Record for this EIR. Please refer to response to comments provided by the Oceano Community Services District (OCSD-2, OCSD-3, and OCSD-4). The EIR addresses potential effects to the Santa Maria Groundwater Basin and Northern Cities Management Area (NCMA), and flow within Los Berros Creek (refer to Final EIR Section V.P.5.a.1.a Water Resources, Project-specific Impacts and Mitigation Measures, Project-wide, Sustainable Water Supply, Effects to Groundwater). Project modifications and mitigation measures (WAT/mm-1) are identified that would avoid a reduction in flow within Los Berros Creek (due to use of domestic wells) and subsequently downstream flow into the NCMA. As noted in the impact analysis: "groundwater inflow from the project site comprises approximately four percent of the reported groundwater production budget for the NMMA portion of the Santa Maria Groundwater Basin. The 2011 NMMA report states that although recharge to alluvium along Los Berros Creek may be significant, "any groundwater flow from these [bedrock] formations to the NMMA is likely negligible" [page 12, NMMA, 2011]. The recommended pumping schedule for the proposed domestic wells included measures to protect baseflow within Los Berros Creek. Therefore, implementation of the project would not have a substantial, or significant, adverse impact on the Santa Maria Groundwater Basin or offsite groundwater resources".

(2) V.P.-4 ESTIMATION OF PROJECT IMPACTS ON LOS BERROS CREEK FLOW AND UNDERFLOW **WRAC(b)-13**

(a) Domestic And Agricultural Well Reallocation In The RRDEIR As Impacts On Flow

The substitution of Wells 10, 11, 12, 13 with Wells 10, 11, 14, 15 for domestic supply is supported by the WRAC subcommittee . While it has been shown that wells 12 and 13 affected Los Berros Creek, it cannot be assumed that lowering water tables due to production of the other wells will not also have an effect on the creek. Los Berros Creek historically behaved as an effluent stream that flowed long into the dry season due to recharge from nearby aquifers. In WRAC's comments on the RDEIR, it was noted, in regard to Well 9:

The fast recovery of Well #9 after heavy rains suggest connectivity to Los Berros Creek. Other bedrock-supplied wells did not show a similar recovery (RDEIR V67) (sic). *The RDEIR also notes that there could be future well interference between Well #9 and domestic production wells, although the well tests show no evidence of this. The RDEIR (V67)* (sic) *notes that replenishment rates for wells in the Monterey Formation are likely to be low, and that well interference with Wells #10 and #11 is a future possibility (V68)* (sic). **WRAC(b)-13 (cont'd)**

It is reasonable to assume that use of wells with hydrological connections to Los Berros Creek would affect stream flow. Analysis of the Los Berros Canyon, and all properties and wells located within the alluvium of Los Berros Creek, and

pumping records of these wells over the past 40 years would provide comprehensive information regarding the effects of pumping with the canyon and Los Berros Creek streamflow. The EIR and supporting technical reports assess the effects of the project on the underlying aquifers and Los Berros Creek. This analysis was limited to the discretionary aspects of the project (the domestic wells), and known information regarding agricultural wells is also included. Based on the well tests, the hydrograph for Well 9 (an agricultural well) (Appendix H1, Geosyntec 2011, Figure 16) shows a gradual increase in water level approximately coinciding with the end of Phase 3 testing. These data look typical of recovery of water levels if pumping of Well 9 had stopped. Water level rise is evident in Well 9 in response to the heavy rainfall in December 2010 and January 2011. Increase of water levels in response to rainfall was much more pronounced in Well 11, which is also a bedrock well completed in the Obispo Formation (Figure 11, Geosyntec, 2010). And increase of water levels in response to heavy rainfall was apparent in Wells 12 and 13, which are bedrock wells competed in the Monterey Formation. Wells 11, 12, and 13, are all close to Los Berros Creek. Wells 9 and 11 are separated by a distance of approximately 2000 feet, but are completed in the same fractured tuff unit. Testing indicated hydraulic connection between Wells 9 and 11, but small influence of pumping from one on the other (CHG, July 2010). However, Well 9 is close the local north-south trending drainage which is also close to Well 10. If pumping from Well 10 induces increased recharge from this drainage to the fractured tuff unit in which Well 10 is completed, less water may be available downstream for recharge to lower fractured tuff unit in which Well 9 is completed (e.g. Figures 1 & 2 CHG, July 2010).

and in regard to Wells 5 and 8:

WRAC(b)-14

Well #5 and Well #8 appear to have a dependence on Los Berros Creek underflow as both showed fast recovery after rain (RDEIR V67).

Well #8 appears in the RDEIR in the context of hydrographs that indicate strong dependence on Los Berros Creek underflow (RDEIR V67) **(sic)**. ***There is no further discussion of Well #8 except the statement that it is an agricultural supply well. Failure to factor in Well #8 impact weakens the assertion that impacts (WAT Impact 7)*** **(sic)** ***to Los Berros Creek can be reduced to less than significant (RDEIR V81)*** **(sic)** ***as this conclusion has been evaluated on potentially incomplete data.***

Please note that the page and section references in the above quotes are copied from the original document and do not refer to the RRDEIR.

The data for Well 5 (agricultural well) do not show a rapid increase in water levels after periods of high rainfall. The hydrograph for Well 5 (Appendix H1, Geosyntec 2011, Figure 16) shows a gradual increase in water level at the beginning of the Phase 2 and Phase 3 testing. This may be due to recovery of water levels in Well 5 if it was pumping before the testing, but turned off when Phase 2 and 3 pumping began. The County concurs with the comment that water levels in Well 8 (agricultural well, also known as Enloe #1) increased rapidly after periods of high rainfall. This is attributed to hydraulic communication between Los Berros Creek and the localized alluvial aquifer along the within which Well 8 is screened. Well 8 was installed in 1999, which is stated and illustrated in Appendix H1 (Geosyntec 2011, page 12, and Figure 16). Page 12 and Table 2 of the report (Geosyntec 2011) also indicated that Well 8 is completed in shallow alluvium along Los Berros Creek. Note however that influence of pumping from Well 8 on Los Berros Creek is accounted for in the gauging of Los Berros Creek because Well 8 is upstream of the gauging station (e.g. Figure 2, Geosyntec, 2011). No increase in production is proposed at Well 8 for the proposed development. Limitations of pumping from Well 8 during dry months would help preserve the baseflow and riparian ecology of Los Berros Creek; however, this well would be used for agriculture and the County is not currently regulating agricultural water use at this project site. WAT Impact 7 relates to drainage patterns and runoff flow rates affecting Los Berros Creek; the comment appears to be referencing recharge to the creek. Regardless, the County understands that the commenter is concerned about use of alluvial wells (such as Well 8) and the potential effect on the creek. As noted, Well 8 is an agricultural well and would not be used for domestic purposes. The project has been designed, and would be required to comply with mitigation measures, that would protect alluvial flow. The EIR evaluates potential impacts resulting from the project, which is limited to the wells to be used for domestic use. Use of agricultural wells and agricultural production is not currently under discretionary review by the County.

(b) Evidence Of Negative Impacts To Los Berros Creek From Current Operations

WRAC(b)-15

V.P.-4 Stream gauge data for Los Berros Creek (Table 1 Appendix H1) shows that the stream flowed year round until 1981, with the exception of 1977, 1979 and 1980. There is reference to the Bartleson Development Plan which states that Los Berros Creek maintained base flow throughout the summer

""*....during the dry season prior to approximately 1981 when groundwater pumping was increased from the fractured tuff aquifers of the Obispo Formation. The stream gauging data also show zero flow prior to 1981 in the creek during the dry season in 1977, 1979, and 1980."*

On the same page:

"*no gauging data for Los Berros Creek are available for the period from 2002 to 2005. Some field records with the County indicate that the creek was dry during that period but no data logs have been found to confirm the creek stage or flow during this period.*"

Laetitia increased irrigated acreage tenfold in 1982 (source: Laetitia's web page) at about the time creek flows are sharply diminished. Impacts would be felt as new wells penetrated both the underflow of the stream and bedrock that was providing effluent flow to the creek. There is historical evidence of significant drawdown in the water table at Laetitia. On p. V.P.-41 the RRDEIR states

"*Although there are only a few data points for Wells F&T-1, F&T-2, FVW-1, and FVW-3, over periods of several years, the data show a general decline in groundwater elevation at these wells over 30 years*"

WRAC(b)-15 (cont'd)

As reported by Cleath and Associates (2005) and Geosyntec (2011) the Bartleson Development Plan (Morro Group, 1996) indicated that discharge of groundwater maintained base flow in Los Berros Creek during the dry season prior to approximately 1981 when groundwater pumping was increased from the fractured tuff aquifers of the Obispo Formation. Future monitoring of flows in Los Berros Creek is recommended (refer to WAT/mm-7). The depth and extent of the alluvial aquifer along the lower reaches of Los Berros Creek is small and the capacity for storage is minor. The geologic map, the boring log, and hydrograph for Well 8, also called Enloe 1 (Appendix A and Figure 16 of Geosyntec 2011), illustrate the limited capacity of the shallow alluvial along Los Berros Creek: • the alluvium along the lower portion of Los Berros Creek is only a few hundred feet wide; • at Well 8 the depth from the ground surface to the bottom of the alluvium is approximately 65 feet (the well is screened from 25 to 65 feet); • water level in Well 8 rises quickly to within 10 to 20 feet of the ground surface in response to large rainfall events. The rapid response of water level in Well 8 to rainfall events is a consequence of the small storage capacity of the alluvial aquifer along Los Berros Creek. As shown in the testing results for Wells 11, 12, and 13, these wells are influenced by Los Berros Creek. Existing documentation indicates that increased pumping from the alluvial basin, and Obispo tuff adjacent to the alluvial basin that has hydraulic connectivity to the creek over the past 30 years has reduced stream flow in the creek. For this reason, the project has been modified to avoid use of domestic wells 12 and 13, and restrictions are placed on all domestic wells including 10 and 11 to minimize potentially significant impacts to base flow within Los Berros Creek.

Appendix H1, figure 18, shows that F&T 1 dropped 40 ft. in a decade, FVW-1 dropped 40 ft. in 20 years, F&T 2 dropped 80 ft. in 10 years, and FVW- 3 about 10 ft. in 10 years. This suggests that an overdraft condition already exists in the area, that the existing production for the vineyard is unsustainable in the long term, damaging to Los Berros Creek ecosystems, and reducing recharge to the Arroyo Grande Subarea aquifers.

WRAC(b)-16

As described in the EIR and supporting technical reports provided by the applicant (Cleath and Associates 2005), the agricultural irrigation system includes Wells 1, 4, 5, and 9 (F&T 2, F.V. Wells 3, F.V. Wells 1, and F&T 1). Appendix H1 (Geosyntec 2011, Figure 18) shows a general decline in water levels based on the data from Table 4 of Cleath and Associates 2004. An updated figure provided in Appendix H4 (refer to Attachment 1) includes more recent water level data for the four irrigation water wells, shows recovery of water levels in irrigation well F&T 1 (Well 9), but continued

long-term drop in water level in Wells F&T 2 (Well 1) and FV 1 (Well 5). The four irrigation wells are all completed in the fractured tuff of the Obispo Formation. Additional wells included a shallow domestic well (Enloe-1) completed in alluvium adjacent to Los Berros Creek. The oldest agricultural/irrigation well onsite is F.V. Well #1 (Well 5), which was constructed in 1983 (irrigated 132 acres of vineyards). The next well was constructed in 1988 (F.V. Well #2) (Well 7) for the winery and estate residence. Groundwater production rates of 21 afy have been sustained from each of agricultural Wells 5 and 9 for 11 to 26 years, respectively, based on available data (CHG, 2010; Geosyntec, 2011). Records of water levels and pumping for Well 5 include a multiple-year period of drought from 1987 to 1991. Although water level data are not available during this drought, the water levels in Well 5 were only approximately 40 feet lower than the initial water level in 1983 when it was installed (the total depth of the well is nearly 400 feet). Thus if groundwater levels dropped substantially during the drought in the late 1980s, they recovered.

The RRDEIR fails to either interpret or establish the history of long term storage changes with either the history of agricultural well water extraction at Laetitia or with the flow history of Los Berros Creek, although much of the data appears to be present in the document and its appendices. The FEIR should examine the thin evidence on water storage changes in terms of future projections of water levels and impacts to Los Berros Creek.

WRAC(b)-17

Regarding historic conditions, as indicated in the EIR Appendix (Geosyntec 2011, page 6), Cleath and Associates (2005), and the Bartleson Development Plan (Morro Group 1996), discharge of groundwater maintained base flow in Los Berros Creek during the dry season prior to approximately 1981 when groundwater pumping was increased from the fractured tuff aquifers of the Obispo Formation. The stream gauging data (Table 1, Geosyntec, 2011), however, also shows a few months prior to 1981 with zero flow in the creek during the dry season: October & November 1977, (1978 insufficient data), August – December 1979, and September – December 1980. The County is not aware of well data or stream flow data to evaluate if pumping in the 1970s decreased baseflow of Los Berros Creek. These periods of zero flow in Los Berros Creek occurred prior to planting of 145 acres of vineyards and drilling and use of well 5 (FV Well 1) in 1983 on the project site. This well yielded 26 afy. The Environmental Assessment of Water Resources Availability Bartleson Development Plan (Morro Group 1996) documents an increase in agricultural crops, and pumpage in both the upstream alluvial ground water basin and upstream fractured rock. The pumpage within fractured rock was 575 afy (including 52 afy for vineyard irrigation on the project site), which provided irrigation for 391 acres of agricultural crops (including 145 acres of vineyard on the project site). Pumpage within fractured rock in 1985 was 22.5 afy for residential uses. In 1977, the yield from fractured rock was 80.4 afy, which provided water for 33 acres of crops and 5 residences. By 1994, vineyard acreage on the project site increased to 184 acres, and pumpage increased to 66 afy from fractured rock. The total agricultural acreage in Los Berros Valley (upstream of the Bartleson site) was 478 acres (699.4 afy for agricultural irrigation). 39 afy was pumped for residential use. The classic “cone of depression” of the water table (or potentiometric surface) associated with pumping of groundwater from an aquifer may not be applicable in a fractured bedrock aquifer because systems of fractures can function as localized isolated aquifers each of which can have different drawdown. Also, evaluation of drawdown influence of pumping from the project wells is particularly difficult without any observation (monitoring) wells. Regarding 1968-2001 flow data, some of the monthly average flows presented by Table 1 of the Geosyntec Report (2011) are incorrect, although the data presented graphically in Figure 5 are correct. A revised Table 1 with corrected monthly averages is provided in Appendix H4 (refer to Attachment 2). Although the data do indeed show a lower average flow in Los Berros Creek during January in more recent years, inspection of the data provided by the revised Table 1 (Appendix H4, Attachment 2) shows that the historical average flow value for January is strongly influenced by a very high flow in January of 1969, which could be considered an outlier. Moreover, January data are missing for seven years from 1992 to 2001. Accordingly, the statistical validity of the January average flow data is questionable.

The 1968-2001 flow data is processed as monthly averages in Appendix H1 Figure 5. This does seem to show a significant decrease in January average flow in Los Berros Creek when years 1981-2001 are averaged, compared to the 1966-2001 average which is weighted toward older data. January flow dropped by a third, suggesting a possible deficit in underflow storage has developed through the summer and fall months. This would detract from surface flow until underflow capacity was reached.

WRAC(b)-18

(c) Insufficient Or Missing Information Concerning Los Berros Creek Flows

The RRDEIR states that the County has stream gauge data: *"for the period from 1978 to March 2011. However, no gauging data for Los Berros Creek are available for the period from 2002 to 2005."* There is a question as to why 2006-2011 data is not presented along with the analysis of the 1968-2001 data in Appendix H1 Figure 5.

Please refer to response to comment WRAC(b)-17 above. The County provided data for Los Berros Creek for 2006 through 2010; however, the data were incomplete. Processing of the additional historical data and future monitoring of flows in Los Berros Creek to enable the County to analyze monthly flows is recommended in accordance with WAT/mm-7.

(3) Cumulative Effects Of Well Water Extraction On Steelhead And Red-Legged Frog Habitat Of Los Berros Creek

The National Marine Fisheries Service has designated Los Berros Creek as steelhead Critical Habitat in the Estero Bay Hydrologic Sub-unit 3310 and the Oceano Hydrologic Sub Area 331031. Impact mitigations listed in Chapter 4 of the RRDEIR as Bio/mm-1 through Bio/mm-12, and WAT/mm-1 through WAT/mm-15, say nothing about increasing mean daily flows in the creek.

WRAC(b)-19

As steelhead are present in the creek (V.E.-15) the RRDEIR should discuss the serious potential that federal and state agencies may impose a minimum daily flow requirement to conserve the endangered species habitat. A habitat plan could require pumping be reduced or even terminated if shown to be directly or indirectly dewatering the creek.

The RRDEIR fails to relate minimum allowable flows for success of steelhead in Los Berros Creek to the probable impacts of increased well pumping affecting the creek.

The EIR assessed project impacts, from domestic wells, including the potential for reduced stream flow (refer to impacts WAT Impact 1 and BIO Impact 7. The County is not currently regulating wells designated for agricultural use. The EIR does not include recommendations to increase stream flow as a result of this project; however, compliance with recommended mitigation to conserve water and limit well yields (WAT/mm-1) and ordinances requiring low impact development, groundwater recharge, and prevention of water pollution would mitigate the project's potential effects to aquatic species and their habitat (refer to WAT/mm-2 through WAT/mm-14). There is no known current minimum daily flow requirement for steelhead within Los Berros Creek; however, as noted, the project was modified by the applicant to avoid use of domestic wells that would result in a reduction in flow within Los Berros Creek (refer to Chapter III Project Description and mitigation measure WAT/mm-1). Installation of a stream gauge (WAT/mm-7) would assist the County's monitoring of streamflow in Los Berros Creek, and this information could be shared with agencies and organizations tasked with monitoring and developing plans for steelhead habitat protection.

Most of what has been said above for steelhead can be repeated for red-legged frog. The possibility of additional water demand for the endangered frog habitat should be

WRAC(b)-20

addressed in the FEIR. The RRDEIR discusses mitigation of impacts associated with the red-legged frog habitat, including the preservation of ponds and wetlands especially through the dry summer months. These impacts are discussed only in the context of construction activities and not in terms of a possible prolonged and large-scale dewatering of the area.

WRAC(b)-20 (cont'd)

Please refer to response to comment WRAC(b)-19 above. CEQA requires analysis of project impacts on the environment, as defined as existing conditions, or baseline. The analysis is limited to the proposed project, which is defined as the requests outlined in the use permit and subdivision request.

COMMENTS CONCERNING RESIDENTIAL SYSTEM LINKAGE TO THE AGRICULTURAL SYSTEM

WRAC(b)-21

V.P.-6 The RRDEIR states that the looped water main distribution system for the domestic supply "*will be separate from the agricultural/irrigation water supply and storage system.*" The WRAC subcommittee requests further information on the accuracy of this statement, as it is possible that physical connections between domestic and agricultural systems will remain in place but would be unused. Based on the answer to the question, the WRAC subcommittee would like to see information on any foreseeable situation where cross connections would be used. For example, would or could irrigation well water be diverted to domestic use if unexpected production losses were experienced on the domestic side? If the agricultural and domestic water supply was to be controlled by a single entity, would cross-connection be in the interests of all parties? Does California Water Code Section 106 that states that residential use is a higher use than agricultural use come into effect? In addition, water quality data of the irrigation water at any proposed point of interconnection should be presented so that it can be determined whether water quality, after processing by the proposed Mutual Water Company, will meet State Environmental Health & Safety Agency standards.

Based on information provided by the applicant, the domestic system and the agricultural systems would be separate. The proposed project does not include transfer of irrigation water into the domestic water system. The agricultural water and domestic water systems would be managed by separate entities, as proposed by the applicant. The EIR evaluates the project, as proposed, which does not include substitution or supplement of water from the agricultural wells to the domestic water system. Based on the long-term testing, the proposed domestic wells have capacity to serve the project, as restricted by mitigation measure WAT/mm-1 and supplemental water from agricultural wells is not considered to be necessary. Use of water for domestic purposes is required to meet existing codes, and no interconnection is proposed.

COMMENTS CONCERNING ESTIMATIONS OF AGRICULTURAL WATER DEMAND

WRAC(b)-22

V.P.-6 discusses existing water use estimations in agricultural operations. The RRDEIR uses the 208 af pumped in 2011 as the basis for describing both existing and projected demand (see also Table V.P.-1). The basis of this number, as given by Cleath and Associates, cannot be verified as supportive documentation is not provided, such as well production logs, and is referenced only as an email communication (Appendix H-2, p.2).

The WRAC subcommittee requests that better documentation be provided in defense of this low irrigation application rate. This is especially important as 2011 was a heavy rainfall year (see comments on V.P.-3 above), and thus irrigation would be less than normal.

The subcommittee offers evidence from SLO County records that the use of 2011 irrigation data is misleading. Using the data from the Nipomo Mehlschau #38 site, and using the 2010-2011 water year as the basis for establishing spring and summer water conditions for 2011, the precipitation was 28.95 inches. As the average water year precipitation for the site between 1920 and 2012 is 16.75 inches, it is evident that irrigation amounts would have been much reduced from average requirements. The other two years for which irrigation data is ostensibly available were given as 1994 and 2003,

but the data is not provided or apparently used and the preceding water years 1993-1994 and 2002-2003 yield 13.37 inches and 16.98 inches.

WRAC(b)-22 (cont'd)

Geosyntec concurs that the amount and timing of rainfall is important in estimating irrigation requirements. And as documented (e.g. Geosyntec, Oct 2011), short term variation in rainfall also influences the potential production capability from wells such as Well 11 for which rapid recharge response to rainfall is attributed to hydraulic connection to base flow of Los Berros Creek. However, short term (e.g. <1 year) variation of rainfall does not influence the production capability from the other project wells (Wells 10, 14, and 15) because they do not have direct connection to surface water and recharge to groundwater tapped by these wells is a slow process. As addressed in the baseline water demand evaluation (Geosyntec, 2012), historical water use for the Laetitia Vineyards and facilities as reported by Cleath and Associates (2004, 2005) was based on available pumping records for 1994 and 2003. The estimated vineyard water demand for 1994 and 2003 was 0.26 AF/Y per acre of vineyards. And, an additional water demand estimate for the Laetitia vineyard and facilities was based on metering data during 2011. The estimated vineyard water demand for 2011 was 0.34 AF/Y per acre of vineyards, substantially higher than the estimate for 1994 and 2003. Based on discussion at the WRAC special meeting on August 7, 2013 we understand that additional historical metering data are available for groundwater pumping for the Laetitia vineyards and facilities. We recommend that estimates of the historical irrigation rates for Laetitia vineyards are updated by the applicant based on review of all the available historical metering data, and provided as a supplemental source of information for the record.

The subcommittee supports the use of irrigation values based on the Master Water Plan, minus allocations for frost protection. The RRDEIR notes the low Master Water Plan value of 0.7 AFY/A would be reduced to 0.45 AFY/A (Appendix H2, p.7) with frost protection removed, as the Master Water Plan assumed 0.25 AFY/A frost protection would be needed in coastal areas (see also Appendix D, Master Water Plan). The 0.45 AFY/A from Appendix H2 and the projected vineyard use of 291.2 AFY gets no further mention in the DEIR, even though the Appendix states :

WRAC(b)-23

"Because available records of irrigation rates for the Laetitia vineyards are apparently limited to three years (1994, 2003, and 2011) and rainfall in 1994 and 2011 was well above the estimated average for the Project Area (Geosyntec, 2010), we have used a reasonable conservative approach to calculate baseline water demand of the Laetitia vineyards based on the low water demand value of 0.7 AF/Y per acre for WPA 7 in Table A1 and subtraction of the assumed 0.25 AF/Y per acre for frost protection, which is included in the 0.7 value: 0.7 – 0.25 = 0.45 AF/Y per acre".

As discussed above in WRAC(b)-22, and as addressed in the baseline water demand evaluation (Geosyntec, 2012), historical water use for the Laetitia Vineyards and facilities as reported by Cleath and Associates (2004, 2005) was based on available pumping records for 1994 and 2003. The estimated vineyard water demand for 2011 was 208 AF, which equates 0.34 afy per acre of vineyards, substantially higher than the estimate for 1994 and 2003. Based on further discussion of frost protection measures used at the Laetitia vineyards, subtraction of the 0.25 afy allocated by the Draft Master Water Plan for the County (Carollo, 2012) for frost protection is indeed appropriate as presented in the Baseline Water Demand letter (Geosyntec, 2013) because fans are used for frost protection instead of water.

WRAC(b)-24

The subcommittee questions using Master Water Plan vineyard water numbers derived from Water Planning Area WPA 2 for Cambria and WPA 3 (Cayucos) rather than those for Laetitia's geographic location in WPA 7 (South Coast). The evapotranspiration rates for these WPA's are 38.5, 38.2 and 52.1 respectively. In the letter from Geosyntec to Shawna Scott of 4/18/12, the consultants state on p.4:

"Thus, although the reported vineyard water demand values of 0.26 to 0.34 AF/Y per acre for the Laetitia vineyards are substantially lower than predicted for WPA 7 based on calculated water demands (ESA, 2010) presented in Appendix D of the County MWP (Corollo, 2012), the Laetitia vineyard reported values are similar to predicted values for other WPAs in the County if indeed no water is used for frost protection".

The WPAs were developed because there are significant differences in such factors as evapotranspiration rates, so the application of data to WPA 7 from WPAs 2 & 3 is not appropriate.

As shown in Table V.P.-2 Variation in Vineyard Irrigation Demand (Using WMP [WPA 7 South Coast] Rates) and documented in the Baseline Water Demand (Geosyntec 2012), the WPA 7 rate ranges from 0.7 afy (low) to 1.3 afy (high), which include 0.25 afy for frost protection. As documented in the Baseline Water Demand, which is incorporated by reference into the EIR analysis, and as documented in the applicants reports (Cleath and Associates 2004) no frost protection has been used on the existing vineyards. The EIR presents a range of agricultural water demand including estimates based on irrigation data and yields from agricultural wells over time, and estimates provided in noted reports including the Water Master Plan. The actual irrigation rates at the Laetitia vineyard are noted to be lower based on practices including drip irrigation and periodic irrigation (documented in the 2005 Cleath and Associates report), such as irrigating one or two days a week.

WRAC(b)-25

The WRAC subcommittee also questions the lack of availability of irrigation data, which would usually be an important factor in wine production, and the selection of high rainfall years in providing the limited information available.

Irrigation rates were identified based on information provided by the applicant, in referenced reports. Irrigation rates range from 0.22 to 0.39 afy depending on the vineyard block, averaged to 0.26 afy, as show in Table 3 Well Production of Irrigation Wells Laetitia Vineyard and Winery (Cleath and Associates 2004). The report documents irrigation records in 1994 and 2003.

WRAC(b)-26

The subcommittee notes an inconsistency between V.P.-5, which states "*Average annual production from the onsite irrigation wells was 161 afy between 1999 and 2003.*", and the statement that records were only available for the years 1994, 2003 and 2008. If an average annual production was calculated, where is the data for 1999-2002?

As the subcommittee was meeting, the County provided a copy of a letter from Cleath and Harris (CHG) to John Janneck on July 18, 2013, which was copied to San Luis Obispo County. They question a linkage between drought and increased irrigation use and defend figures used in the DEIR and state:

"CHG has documented vineyard water use at Laetitia over several years, including a drought year, where water use was less than the current rate (1994; 13.37 inches of precipitation at County gage #38; 0.25 acre-feet per acre of vineyard). Historical average annual water use in the vineyard has ranged from 0.25 to 0.34 acre-feet per acre, which is much more realistic for future Laetitia water demand than the RRDEIR figures."

The differing opinions of experts regarding irrigation demand and rainfall should not be cause to simply accept the numbers provided in the RRDEIR. As vineyard water demand is a critical factor in groundwater sustainability, more supportive data is needed before an average figure is chosen. For example the WRAC subcommittee is concerned that rainfall data and irrigation data is not available for each year that Laetitia has been in wine production, and that water use and local rainfall data cannot be substantiated. This would seem unusual for a weather-dependent agricultural operation.

Without greater substantiation the subcommittee considers that, relative to 2011, precipitation is likely to be lower and irrigation requirements are likely to be higher.

WRAC(b)-26 (cont'd)

Cleath and Associated noted a vineyard irrigation range of 0.25 to 0.34 afy, which is consistent with the EIR's estimate of 0.34 afy. These figures are supported by documentation provided by the applicant (Cleath and Associates 2004, CHG 2013).

COMMENTS CONCERNING ESTIMATIONS OF RESIDENTIAL WATER DEMAND

V.P.-36 In the RRDEIR Geosyntec states that they concur with applicant's estimate of 0.44 afy/lot, noting that it is higher than the standardized rate of 0.36 afy/lot. The supporting arguments are given in an April 2013 document contained in Appendix H of the RRDEIR. That document supports the duty factor by incorporating assumptions utilized in the Department of Water Resources Model Water Efficiency Ordinance and the 2011 California Green Buildings Standards Code (CGBSC). However the CGBSC cited homes are described as 3 bedroom with 4 occupants without reference as to size. Laetitia is proposing 3000 to 5000 square foot homes on 1 acre lots. For comparison Nipomo CSD's 2010 Urban Water Management Plan prepared by WSC [Water Systems Consulting, Inc.] has recorded actual usages as Multi Family 0.28AFY; Duplexes/Secondary 0.28AFY; Parcel less than 12,768 sq. ft. 0.40AFY; Parcel between 12,769 and 25,536 sq. ft. 0.68AFY; Parcel greater than 25,536 sq. ft. 0.82AFY.

While the 0.36 afy/lot might be defended on the basis of severely restricted landscape irrigation and engineered water-saving devices that would be policed through CC&Rs, such CC&Rs may either be changed in the future or violations of the CC&Rs ignored. Regardless of residence fixture flow rates at the time of first occupancy, personal comfort levels and habits will frequently cause residents to modify flow in devices like showers.

For these reasons, the WRAC subcommittee considers the 0.36 afy/lot to be marginally credible but probably underestimating likely future use.

WRAC(b)-27

The water duty factor of 0.44 afy per residential unit that is assigned to calculate residential demand for the proposed development is within the range of 0.22 to 0.36 afy per unit calculated by Geosyntec (April 2013) (refer to EIR Appendix H) based on current references and guidelines for residential water usage in California, and noted restrictions on water use. The County concurs that CC&Rs are needed to monitor, regulate and enforce compliance with the water usage that limitations. On August 16, 2012, the California Supreme Court held that in a common interest development, a developer (and the individual owners) may bind an association to an arbitration covenant in a recorded declaration of CC&Rs. One option would be for the project applicant to record a declaration of CC&Rs, which would include water usage limits and required monitoring of water levels in wells and flow in Los Berros Creek. Once the first owner accepts the covenants and restrictions in the declaration by purchasing one of the residences, as long as the

terms are reasonable, they become enforceable equitable servitudes (see footnote 4 below). In addition to previously identified restrictions, the following sentence has been added to WAT/mm-1 to ensure future homeowners are clearly aware of water restrictions: “The program shall identify maximum water use of 0.44 acre feet per year, per lot”.

COMMENTS CONCERNING AQUIFER AND WELL TESTING WRAC(b)-28

(1) GENERAL COMMENTS

During the evolution of the RRDEIR there have been a number of documents that have questioned both the methodology used in aquifer and well testing, and the interpretation of the results. These include the original tests by Cleath and Associates, peer review of the tests by Fugro West, and in the RRDEIR analysis by Geosyntec. The WRAC subcommittee also received commentary on the Geosyntec studies by Cleath and Harris. The subcommittee also realizes that the conflicts between experts, which is not uncommon in the CEQA process, will be an obstruction to making an optimal decision that maximizes development without threatening long term sustainability of the water supply and wildlife. For this reason, project approvals should error on the side of caution. WRAC(b)-28 (cont'd)

The County notes the commenter’s concerns. Responses to specific comments are addressed in this table.

(2) VALIDITY OF PUMP TEST RESULTS IN PREDICTING LONG TERM SUSTAINABLE YIELD WRAC(b)-29

The RRDEIR's Appendix H "Review of Well Testing and Sustainable Yield Assessment" has a section starting on p. 21 giving "Conclusions and Recommendations". The following quotes are pertinent:

"The projections of downward water level trends exhibited during testing and the unknown time to possibly achieve equilibrium pumping conditions underscores that time frame is an important issue with respect to long-term viability of the wells to meet the proposed project demands."

and

"With continued pumping at Phase 3 rates, an expanding cone of depression of groundwater elevation will result in capture of more groundwater and an equilibrium condition accompanied by stable water levels may be attained. However, equilibrium groundwater flow conditions may not occur for decades or longer .....) Based on the water level records during Phase 3 pumping, if the linear trend in decreasing groundwater elevations continues at the rates observed during the Phase 3 testing, the water levels in the wells will likely drop below the top of the well screens-- within months in Wells 10 and 14, and within a few years in Well 15".

Commenter’s summary of portions of the EIR and technical reports are noted.

The RRDEIR states on V.P.-30 that: WRAC(b)-30

"Based on the available data, groundwater production needed for the proposed project is feasible, but will result in long-term average declines in groundwater levels. Additional depletion of groundwater storage associated with each proposed domestic well appears to be necessary to sustain long-term water production to meet project demands. With continued pumping, equilibrium water levels may be attained in time (Geosyntec 2011, 2013)."

Neither Geosyntec nor the WRAC subcommittee consider that this project meets the full definition of sustainability, but Geosyntec indicates that the four wells in the domestic loop would be able to produce 62.4 afy or 38.7 gpm. (V.P.-32) and satisfy project demand. However the degree to which this well production removes water from storage, or further reduces subsurface recharge to Los Berros Creek have not been quantitatively

established. Geosyntec defends this production level even after consideration of the following:

"The estimates of viable long-term groundwater production rates reported herein are based on evaluation of water levels recorded in four wells for the period from October 2009 to March 2011, which included several months of pumping. However, we caution that rainfall during the testing program was 138 percent of average, and also that long term yields of water wells producing from bedrock aquifers, which may have linear fracture systems, commonly are substantially less than short-term yields."

WRAC(b)-30 (cont'd)

Based on the long-term testing conducted, the pumping of groundwater from the four project wells can meet the project demand of 46.3 afy for decades, and the recommended reduction in pumping from Well 11 during the dry months would help minimize direct impact on Los Berros Creek. As reported, decreasing water levels in some of the wells at end of the Phase 3 testing indicates that depletion of storage of groundwater continued (following Phase 3 pumping rates, which are higher than proposed well yield rates). Accurate quantification of the depletion of storage is not possible, particularly for fractured bedrock aquifers for which the connected porosity (useable storage) is not well defined and would require use of monitoring wells located in the same fractured bedrock system as pumping wells.

(3) ADDED COMMENTS BY WRAC SUBCOMMITTEE REGARDING SUSTAINABILITY

Several people have expressed concern that production of water from fractured aquifers can be highly productive until the fractures are drained, so that water production will drop quickly and in some cases not recover. Geosyntec notes the difference between fractured aquifers and homogenous aquifers, but sudden production loss was not discussed.

WRAC(b)-31

Geosyntec concurs that sudden decrease of production is possible in wells completed in fractured bedrock because pumping can drain water stored in discrete fracture networks. However, the long-term testing (several months) conducted at the Wells 10, 11, 14 and 15 did not show an increasing rate of drawdown with time, which would occur if influence of pumping reaches an impermeable boundary. Moreover, as stated in the Geosyntec Report (2011), 11-year and 26- year records of groundwater production rates of 21 AF/Y reported by CHG (July 2010) for each of two irrigation wells (wells 5 and 9) at the Project Site supports that long-term groundwater production from wells completed in the fractured bedrock at the site is possible.

The long term sustainability of groundwater-dependent projects would depend on the balance between withdrawals and recharge. Given the use of 17 inches as an average annual precipitation, and the total project acreage of 1,910 acres, the 1.42 ft of precipitation yields 2,712 AFY on project lands.

The project water demands are stated (p.VP-37) as a wide range between a very low 277.75 AFY to highs of both 494 FY or 938 AFY based on different conditions and using Master Water Plan numbers. The higher numbers are presented in a letter submitted to Shawna Scott from Gordon Thrupp (Appendix H2) by ESA. This would require capture of between 10% to over 30% of the total rainfall as groundwater recharge, both of which are very high numbers compared to the hydrologic literature. For example one global study gives a recharge of 0.1 to 5% of rainfall (Bridget R. Scanlon et. al., 2006, Global synthesis of groundwater recharge in semiarid and arid regions, Hydrological Processes v. 20 p. 3335-3370). This is due to both evapotranspiration and runoff taking the majority of the rainfall. Given a very optimistic capture of 5% of precipitation recharging groundwater, it would only provide about half of the lowest water demand (277.75 AFY) of this project. The other half would either have to be taken from other nearby properties or taken from incoming flows of Los Berros Creek.

There is unfortunately no restriction of the amount of water that an individual land owner can extract, which leads to the accumulation of individual parcel overdrafts.

WRAC(b)-32

Geosyntec agrees that local recharge of 5% of rainfall to groundwater is optimistically high. However, the recharge to the fractured bedrock aquifers is not limited to the Laetitia project land. Recharge to the deep fractured bedrock hundreds of feet below the ground surface, in which Wells 10, 14, and 15 are screened, is a slow diffuse process for which the influence of variation in rainfall is delayed and attenuated. The recharge occurs as leakage of groundwater from adjacent fractured bedrock to which seepage from local streams and percolation of rainfall contribute. A substantial portion of recharge to the fractured bedrock may occur where the fractured bedrock outcrops, which is unrelated to the both the Laetitia property and local watershed boundaries. In addition, the entire Los Berros Creek watershed, which is nearly 15 square miles in area, contributes to the local recharge of Well 11 because it is influenced by creek flow. While there are no current restrictions on well yields, mitigation is recommended that would restrict domestic well yields to avoid an adverse effect on Los Berros Creek.

COMMENTS ON V.P.-42 AND WAT IMPACT 1- ISSUES CONCERNING MANAGEMENT STRUCTURE

(1) CREATION A MUTUAL WATER COMPANY AND A HOMEOWNERS ASSOCIATION TO IMPLEMENT PROJECT MITIGATIONS THROUGH A MASTER WATER PLAN

WRAC(b)-33

On V.P. 42 Mitigation WAT/mm-1 in the RRDEIR requires a Master Water Plan be prepared that provides "*guidelines for residents covering water conservation techniques, and lists of ornamental drought-tolerant plants that would do well in the native soils, etc.). The program shall address all consumer-controlled water uses...*". The MWP would define limitations on exterior irrigation, a drought management plan, a monitoring program to police pumping periods and production volumes, and be enforced by the Homeowners Association (HA) and Mutual Water Company (MWC).

WRAC(b)-33 (cont'd)

Summary of identified mitigation measures is noted

The WRAC Subcommittee concurs that WAT/mm-1 provides for application of project mitigations through to the completion of Phase 3. However, the missing part of this discussion is the long term policing of water use after the development is built out at the end of Phase 3. There are substantial issues with the creation of an MWC to manage water production and use, and issues concerning the separation or space between, an MWC and an HA. While California law requires that they be separate corporate entities, there is no restriction regarding common membership for their boards. There is some possibility that highly restrictive CC&Rs could be altered by the HA by a vote of the HA after Phase 3 is completed, after which there might be no external policing of water use. The subcommittee therefore would like to see the FEIR define the legal framework that would protect mitigations from degradation upon completion of Phase 3.

WRAC(b)-34

Mitigation measure WAT/mm-1 requires the Mutual Water Company to prepare an annual report demonstrating compliance with the project Water Master Plan. The report shall be stamped by a Registered Engineer and submitted by the Homeowners Association to County Public Health and Planning and Building Department. No additional permits of any kind that require use of water supply would be issued if the Homeowners Association is out of compliance

(2) PROBLEMS ASSOCIATED WITH SEPARATION OF DOMESTIC PRODUCTION MANAGEMENT AND AGRICULTURAL PRODUCTION MANAGEMENT

WRAC(b)-35

Once vineyard water operations are divorced from those of the area covered by the Homeowners Association (HA), there will be nothing to prevent the current ability of the vineyard to pump at any desired level, as the Mutual Water Company (MWC) would have a separate jurisdiction on a different subset of water wells. Any MWC problems concerning well production and safe yield could not be addressed by changing vineyard operations.

V.P.-23 discusses groundwater rights, noting the rights of overlying landowners to withdraw water for beneficial use, which would imply parallel rights to the MWC and to Laetitia. The RRDEIR also notes the "reasonable use" provision. It is possible that side-by-side operations might result in litigation, each blaming the other for damage to their systems from over-pumping.

The subcommittee would draw attention to California Water Code 106 that states:
106. It is hereby declared to be the established policy of this State that the use of water for domestic purposes is the highest use of water and that the next highest use is for

The commenter is correct that yields of agricultural irrigation wells would not be limited, unless otherwise determined by the County decision makers. The applicant has noted that agricultural practices would be adjusted in the event of a drought requiring such action. At this time, such action is voluntary, and the County is not currently imposing any restrictions on the agricultural operations. Any legal ramifications would be the burden of the applicant and subsequent owners. The EIR evaluates the impacts of the project on the environment, and speculation regarding potential conflicts due to changes to the project description (which are not proposed by the applicant) are outside of the scope of environmental analysis. Regardless, these concerns are noted for County decision makers' consideration.

Having addressed the WRAC subcommittee's concerns regarding divorcing a Mutual Water Company from Laetitia's agricultural concern, the concern is magnified by the terms of WAT/mm-1. This concerns the creation of a Master Water Plan that addresses "*all consumer-controlled water uses*" and "*shall be administered by the Mutual Water Company and enforced by the Homeowners Association*". It places well-specific limitations on pumping from wells 10, 11, 14 and 15 and requires a Drought Management Plan with specific triggers for action. While this appears perfectly sensible for a stand-alone development, in this case there is no mention of any involvement of the agricultural operations. There is no provision for diverting agricultural water toward residences, nor any suggested change in agricultural operations. This reinforces the fact the water supply for the Mutual Water Company may at risk from agricultural operations over which they have no control.

WRAC(b)-36

Based on the EIR analysis (Chapter V.P. Water Resources), existing agricultural wells would continue to provide irrigation water for vineyards onsite, and proposed domestic wells would provide water for the proposed development. The County does acknowledge that limitations on agricultural well yields and irrigation rates are voluntary, and no current restrictions exist. Assuming the vineyard would continue to apply similar irrigation rates as documented by the vineyard manager, there is no substantial evidence that use of the wells for respective uses would result in a conflict as noted by the commenter.

For the above reasons the WRAC subcommittee recommends that WAT/mm-1 not be implemented until the specific issues of relations with Laetitia and post- Phase 3 management issues are addressed.

WRAC(b)-37

The commenters concern is noted and will be considered by the County decision makers.

COMMENTS ON MITIGATIONS WAT/MM-2 THROUGH WAT/MM-6

WRAC(b)-38

The WRAC subcommittee considers these mitigations that minimize water use to be sensible, providing that the imposed conditions can be satisfactorily policed. For example WAT/mm-5 requires installation of low flow showerheads, but how would this be policed after a home is occupied? Although removing water conservation measures inside the home would violate County codes and ordinances, the actions themselves would be impossible to police.

The County recognizes that it is difficult to police appliance installation; therefore, mitigation is identified that requires metering of water use on each residential lot, in addition to restrictions on domestic well yields (refer to WAT/mm-1).

COMMENTS ON V.P. -47 WAT IMPACT 2- CONCERNING RUNOFF AND AQUIFER RECHARGE

WRAC(b)-39

Table V.P.-7 shows that the Net Peak Runoff Rate after development will be increased by 4.4% for the 10-year storm, 3.8% for the 25-year storm and 2.8% for the 100-year storm. In response to the County regulation that there should be no increase in peak flow, a number of flow-reducing mitigations must be implemented. The WRAC Subcommittee believes that County regulation must be upheld.

The EIR identifies a potentially significant impact due to increase stormwater runoff, and Final EIR WAT Impact 2 has been clarified to note that the increase runoff may result in flooding offsite, including Arroyo Grande Creek. Although retention of stormwater is not proposed by the applicant, compliance with the County Land Use Ordinance (Section 22.52.110) will likely require construction of a basin and/or implementation of other stormwater management improvements to ensure runoff does not exceed the estimated pre-development rate. Please refer to Final EIR Section V.P. Water Resources, 5. Project-specific Impacts and Mitigation Measures, a. Project wide, 3) Drainage and Flooding, which includes additional information regarding flooding in Arroyo Grande Creek. Mitigation measure WAT/mm-9 has been revised to specifically require analysis of 2-year, 5-year, and 10-year storm events using the recommended model to demonstrate to the County Public Works Department that the project would not increase stormwater flow within Arroyo Grande Creek. WAT/mm-9 and WAT/mm-14 identify several potential measures to manage and diffuse stormwater. Compliance with identified mitigation measures requires a final drainage study demonstrating no net increase in stormwater runoff. The discussion of residual impacts has been expanded to address potential secondary impacts resulting from construction and operation of retention basins.

WRAC(b)-40

The WRAC subcommittee supports the water recharge options listed in WAT/mm-10. However on V.P-48 it states that "*No onsite water stormwater detention basins are proposed.*" The WRAC subcommittee would support the development of retention basins

WRAC(b)-40 (cont'd)

for both removal of sediment, the greater delay of peak discharge, and the possibility that basins can recharge bedrock aquifers and the Los Berros Creek alluvial prism.

Please refer to response to comment WRAC(b)-39.

WRAC(b)-41

The subcommittee does not concur with the RREIR that flood risks are reduced to a less than significant level by mitigations WAT/mm-9 and WAT/mm-10 as peak flow will still be increased and downstream flooding is a current problem. The mitigations in the RRDEIR will be helpful for controlling small events, but will be of little use in large events where retention basins would have the greatest effect.

Please refer to response to comment WRAC(b)-39

The WRAC committee also notes that Coastal San Luis Resource Conservation District, in comments on RRM's Hydrology and Hydraulic Report for the original EIR, was concerned that the report had not addressed flooding issues on Arroyo Grande Creek. As the RRDEIR still does not directly address the issue, the FEIR should examine the impacts of the project on both Los Berros and Arroyo Grande Creeks.

WRAC(b)-42

Please refer to responses to comments (CSLRCD).

[redacted]

JUL 22 2015

In Reply Refer to:
MJM:UN000882

Laetitia Vineyard and Winery, Inc
453 Laetitia Vineyard Dr
Arroyo Grande, CA 93420

To Whom It May Concern:

POTENTIAL UNAUTHORIZED DIVERSION OF WATER RELATED TO THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE LAETITIA AGRICULTURAL CLUSTER TRACT MAP AND CONDITIONAL USE PERMIT (SCH # 2005041094) IN SAN LUIS OBISPO COUNTY

Staff from the State Water Resources Control Board, Division of Water Rights (Division) has determined that you may be diverting water in such a manner that may require a water right approval. The project appears to include the diversion of water in two 25 acre-foot reservoirs and at least one well that may be drawing from water in the subterranean stream of Los Berros Creek.

You should contact the Division to determine whether a water right permit or other water right approval is needed. Information on water rights and the permitting process is available at:

http://www.waterboards.ca.gov/waterrights/

If a water right approval is needed, the State Water Board will act as a Responsible Agency for this project. Accordingly, the State Water Board may need to rely on the Lead Agency's California Environmental Quality Act (CEQA) document to support the Division's evaluation of the requested approval. The Lead Agency should therefore ensure that any CEQA document prepared for the project considers all potential direct and indirect environmental impacts associated with the diversion and use of water.

Unauthorized diversion and use of water is considered a trespass and subject to enforcement action under Water Code sections 1052 and 1831. Pursuant to Water Code section 1052, any diversion of water not covered by a valid basis of right may be subject to Administrative Civil Liability of up to $500 per day without further notice. The State Water Board also may issue a Cease and Desist Order in response to an unauthorized diversion or threatened unauthorized diversion pursuant to Water Code section 1831.

Some diverters claim rights to divert independent of a permit, license, registration or certification issued by the State Water Board, such as diversions under riparian or pre-1914 rights. With limited exceptions, Water Code section 5101 requires that a Statement of Water Diversion and Use be filed for these diversions. Water Code section 5107 (c)(1) provides that the State Water

Board may impose a civil liability of $1,000, plus $500 per day for each additional day on which the violation continues if the person fails to file a statement within 30 days after the board has called the violation to the attention of that person. These penalties are in addition to any penalties that may be imposed if the diverter does not hold a valid right or diverts in excess of what is authorized under that right. This letter serves as your notice of the statement requirement and potential penalty.

Please contact me at (916) 341-5310 or matthew.mccarthy@waterboards.ca.gov if you have any questions or require additional information. Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Matt McCarthy, P.O. Box 2000, Sacramento, CA, 95812-2000.

Sincerely,

ORIGINAL SIGNED BY:

Matt McCarthy, Senior
Coastal Lahontan Unit
Division of Water Rights

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County of San Luis Obispo
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July 16, 2015

Mr. Brian Pedrotti, Project Manager
County of San Luis Obispo
Department of Planning and Building
County Government Center, Room 200
San Luis Obispo, CA 93408

RE: Final EIR, Laetitia Agricultural Cluster Subdivision Project

Dear Mr. Pedrotti:

Based on the most recent FEIR, my previous concerns and issues still have not been addressed and again voice my opposition to the approval of this project. I appreciate your efforts and attempts to respond to my previous feedback and inputs (see attachment 1) on this project. While I agree with many of your responses, there are almost an equal number of responses that I disagree with still. Your reoccurring statements to "refer" to general sections of previous documents frequently are non-responsive to the issues raised and are inadequate. However, rather than getting hung up on numerous less important issues, I prefer to focus on the most significant issues of water resources and traffic; attached are my detailed comments on these two subjects. I also strongly recommend the major content of my previous three letters be quickly reviewed by the County decision makers; many important messages are identified which are still pertinent. Both of us have dedicated a significant amount of time and energy to discuss the numerous major problems with this development, especially on the adverse impacts to WATER and TRAFFIC.

I've generated some detailed comments on the water and traffic sections of the FEIR. For the most part, I have not duplicated my numerous previous comments unless I believe that the issue has not been satisfactorily resolved. For the water resource issue, I've chosen to extract and highlight cautions, disclaimers, concerns, and issues from the FEIR and Appendix H1, the key supporting Geosyntec document. These documents, and the numerous related water studies, should make it clear that the water resource availability and sustainability is still an unresolved and controversial issue.

I believe that the number of acres in Laetitia property west of HW101 should be deleted from the total acreage of the development. This property is totally disconnected from the development site and isolated by HW101. This should slightly reduce the number of homes proposed in the development.

The bottom-line is that I do not support this development which will permanently and adversely change the rural nature of the South County. It is the wrong project given the unproven long-term availability of water. Granted, the proponent has generated voluminous studies and reports, however, uncertainty and disclaimers are ever present. For example, the extensive use of the unquantified term "likely" should be at best troublesome and should never be viewed as scientifically valid. Do the authors mean that we have a 51/49 or a coin's flip chance of the long-term availability of water with no reasonable backup source? I do not like those odds!

I also believe that the report authors owe County decision makers and the community a probabilistic assessment on each major factor of uncertainty. For example, FEIR Appendix H1, the key Geosyntec study on water resources, contains 14 instances or uses of the qualitative term "likely" without any quantification. Again "likely" can have many outcomes and probabilities, 51%/49% or 80%/20% or whatever – who knows? I don't believe this is a risk the County should be willing to take (See Attachment 1 to my June 8, 2012 letter for details.) How can the County enter into such a risky situation when future leaders and community members will have to bear the burden of a bad decision based on insufficient data?

At least send the developers back to quantify water availability with continuous long duration testing that is indicative of the water demand this project will require. Also, it appears the unreasonable low estimates of water demand have been manipulated or tailored to meet the questionable water availability. Numerous wells near the project site have and continue to experience failure. Where will the overly optimistic experts and development advocates be when the project wells run dry and have negative impacts on the surrounding water table?

This project and its induced growth are not needed. As a 5th generation native of the immediate area, I strongly oppose this money-driven attempt to further degrade the rural lifestyle of the South County to benefit a non-resident property owner. In my view, this project is inconsistent with the real objectives of the agricultural cluster ordinance of keeping SLO County residents on their ranches and rural properties; this is purely development driven.

I continue to plead that the County will finally acknowledge that this project is unsuited for an agricultural cluster development. This project is without the infrastructure and water resources required for such a major growth inducing development. There are too many unresolved and under-mitigated issues to not warrant outright rejection. If not, at least make the proponents do meaningful and controlled testing of the water resource now, during a drought as contrasted to the period of Phase 3 testing with 138% of average rainfall. As I'm sure you know, the concept of average rainfall in South County is flawed – we have multiple years of long cycles of alternating rainfall and drought periods, as we are now suffering. History shows the water woes can get much worse before water resources recover. Yet the developers are using limited data from a wet period, and have not even attempted to verify the current situation during the drought with testing. Better yet, just reject this project NOW!

Raymond M. Toomey
1150 N Thompson Avenue
Nipomo, CA 93444

CC: Supervisor Lynn Compton

Attachment 1: R. Toomey Responses to Previous Laetitia EIR Submittals
Attachment 2: FEIR Observations and Specific Comments
Attachment 3: Water Resource Disclaimers and Issues

ATTACHMENT 1

R. Toomey Responses to Previous Laetitia EIR Submittals

Please again review my previous three written responses with numerous comments, many of which have still relevant and concerns unaddressed.

1. Two page letter dated August 23, 2013, with 18 pages of attachments containing 90 specific comments of RRDEIR.

2. Two page letters dated June 8, 2012, with 7 pages of attachments containing lists of 20 uses of non-specific term “Likely” in two key water resource reference documents and 23 specific comments on RDEIR.

3. Two page letter dated November 6, 2008, with 15 pages of attachments containing 98 specific comments on DEIR.

San Luis Obispo County authorized responses, or lack thereof, to these letters and comments can be found at XL –Responses to Comments 2013 RRDEIR, Pages XI.D 241 to 251.

NOTE: The three cover letters provide valuable background that should be of interest to County decision makers. Most of the comments on the RRDEIR (item 1) and RDEIR (item 2) may also be of interest, especially of the topics of traffic and water resources.

ATTACHMENT 2

FEIR Observations and Specific Comments

1.0 TRAFFIC :

1.1 Page V.N.-3, ¶1.d: The traffic counts conducted on Jan 3 & 4 2006 are not representative and provide poor source of data upon which to make decisions. These counts are nearly 10 years old and are not valid today. I live off Thompson near Sheehy and do believe the data is out of date. Further, both Nipomo High and Grammar Schools were not in-session on the dates of these counts. Also, Laetitia vineyard work crews were a minimum at that time. All of these factors should raise a red flag leading to new traffic counts that are more representative of the actual traffic conditions during most of the year. GIGO applies (garbage in, garbage our) applies to most of Section V.N and Appendix G that need to be updated based on valid traffic counts for both Thompson and Sheehy.

1.2 Page V.N-9, Table V.N.-3, "Sheehy/Thompson" row: I do not trust the data shown for "Average Delay (sec/veh) and would gladly monitor the collection of current data when the two Nipomo schools are in session and the vineyard is active.

1.3 Page V.N.-10, Table V.N.-5. "Daily Volume" column: What is the source of these data? The values seem extremely low given the added traffic induced by the project. Note the 1234 daily trips for the project alone (pg V.N.-15 &166, ¶6.1 & Table V.N.-9).

1.4 Page V.N.22 & 23, ¶ 6.b.2) (c) & (d): The Sheehy/Thompson and Sheehy/N Dana currently state that the improvements "shall be implemented prior to final inspection of tract improvements." Which project phase – initial or build out? Note that the improvements at Thompson/101 state "No occupancy will occur until improvements are completed." This clause should be used for the two Sheehy and other areas also.

1.5 Page V.N.28, ¶ 6.f. "Neighborhood Impacts:" This gross over simplification ignores the worsening of existing unacceptable traffic risks to walkers, runners, bicycle riders, and horseback riders attempting to use the rural environment for recreation. These and similar outdoor activities are why many settled in the area and should not be further impacted. As a minimum, road shoulders should be widened and designed to support these activities. Laetitia traffic has already caused impacts that should not become more severe.

1.6 Page V.N.-29, ¶ 6.g. 1): This section needs to be expanded to address roadway improvements needed to remove narrow bridges and culverts on N Dana Foothill, and improvements to the dangerous S-curve on the hill approaching Los Berros creek.

1.7 Page V.N.-30m ¶ 6.g. 1), TR-10: The use of 24/7/365 gate guards at this location and at the project main entrance off Los Berros road, may each require at least 4 man-years/year plus relief required by OSHA – 8+ man-years/year is a significant cost burden on the HOA.

1.8 Pages V.N.-37 & -39, Tables V.N.-13 & 14: Same comments as comment 1, 2 again apply to Table -13 row 3 – GI/GO, and Table -14.

ATTACHMENT 2

FEIR Observations and Specific Observations

2.0 WATER RESOURCES

2.1 I've spent too many hours attempting to track the SLOC responses to my many over 250 comments on the general topic or water availability and sustainability. However the numerous cross referencing statements such as "refer to comment xyz" or "refer to comments BH-x, WRAC(x)-yy, H&B-x, H&B-y, and H&B-z" in a single response (RMT-65) to one of my comments is fairly typical. The seemingly endless cross references make this task nearly impossible besides being huge waste of energy and time. Given this dilemma, I've chosen to take a different approach as reflected on the following discussions.

2.2 The bottom line on water swings on two key factors – (1) whether or not the type and duration of the so called "long term" pump testing provided conclusive data needed to justify the stated conclusions on water yield, and (2) are the results adequate to insure long term sustainability for the total Laetitia development and ranch. Note that the FEIR overused and abused term "likely" was not used in the foregoing statement. The 6 ½ months of fragmented testing during a wet season should not be considered adequate "long term" testing. Numerous wells in the Nipomo foothills have failed after longer periods of use. Based on the sketchy evidence presented and the overreaching conclusions in the FEIR, I believe that a strong case can be made that water resources are not now available and will not be in the future.

2.3 Attachment 3 is an abbreviated compellation of key issues or questionable statements extracted from the water resource section of FEIR. These key disclaimers and similar issues should cause county decision makers major concerns over what I believe to invalid conclusions on availability and sustainability of water. .

2.4 Further, in my opinion, many if not most of the SLOC responses to my comments appear to have been generated by an definite advocate for the project with a strong bias toward accepting the FEIR and Geosyntec views without due consideration of the issues raised in the comments. The County's responses appear not those of an impartial reviewer with an anticipated neutral or unbiased position but instead seem to favor the project regardless of the issues being raised.

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WATER RESOURCE DISCLAIMERS & ISSUES

The following statements should provide insight for County decision makers into the risks and uncertainties to the water resource availability and sustainability. These statements were mostly generated by the "independent" peer review firm, Geosyntec, for SWCA Environmental Consultants, the preparers of the FEIR. However, all of the Geosyntec reports were prepared prior to and included in the RRDEIR. My comments on these items are still valid.

The VP-xx numbers refer to pages in FEIR Section V.P., Water Resources. When used, the RMT-xx numbers refer to my August 2013 comments on the RRDEIR and/or their SLOC responses in FEIR Section XI.D.-241 to -251. (*Italics* added for emphasis.)

3.1 Pg V.P.4, 2nd ¶: Note that water flows in Los Berros Creek ceased about 1981, interestingly about the time vineyard production started. Cause or affect?

3.2 Pg V.P-23, The 2nd sentence testing over "**fifteen months**" but the total number of test days in Table V.P.-4 is about 272, far short of the about 450 days in the stated 15 months. Also note that much of the Phase 3 testing was performed during the wet season, inconsistent with the last sentence of the 3rd paragraph of page V.P.-23. These somewhat minor items are typical of an apparent bias in the FEIR.

3.2 Pg V.P.-24, 2nd line: Note the statement that the "**74.4 afy is *substantially* more than ---demand of 46.3 afy**." But what is not mentioned is the fact that Geosyntec states in Appendix H1 that this higher pumping rate is not sustainable. Note the favorable pro-project bias.

3.3 Pg V.P.-24 last 2 lines & -25 1st 2 lines: "**Based on the fact that water levels in 3 of the 4 wells were still generally dropping during the Phase 3 pumping, and the groundwater in the aquifers near these wells did not reach equilibrium levels, continued pumping at the Phase 3 rates (54 gpm) will continue to deplete aquifer storage**." Key points – equilibrium not achieved and water continued to drop. Wonder what the status is now after 4 years of severe drought?

3.4 Pg V.P.-25 2nd ¶ under Equilibrium: "**----groundwater production needed for the proposed project is *feasible* but will result in long-term average declines in ground water levels. Additional depletion of groundwater storage associated with each proposed domestic well appears to be necessary to sustain long-term water production to meet project demands. With continued pumping, equilibrium water level *may be attained in time* (Geosyntec 2011, 2013)."** These statements should alert County decision makers to the razor thin water crisis.

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3.5 Pg V.P.-26, Last 2 sentences of 1st ¶: "**However the time to achieve equilibrium pumping conditions can take decades or centuries. And if groundwater pumping exceeds the potential for capture, new equilibrium conditions are not possible (e.g., Bredehoeft & Durbin, 2009).**" The FEIR used the next 2 ½ pages attempting to rationalize and apply magic data manipulations to arrive at an acceptable water situation. However this entire water resource issue is on the cutting edge of being marginal if not unacceptable.

3.6 Pg V.P.-28. 3) Aquifer Properties 2nd ¶: "**The methods used for estimating transmissivity and hydraulic conductivity of the aquifers tapped by the wells at the project site are based on the *assumption* are uniform throughout and in all directions. Generally, fractured bedrock is not uniform and isotropic; however *at a large scale*, fractured bedrock aquifers can be reasonably represented by an equivalent homogenous porous media, ---- is common**." Wonder what "**at a large scale**" really means. The 4 project wells are in close proximity which probably should make this assumption questionable.

3.7 V.P.-29 1st ¶: "**Initial yield from wells in fractured bedrock aquifers is often not representative of longer-term yields, which are typical lower. As groundwater is released from storage in fractures, the hydraulic gradient toward the well becomes progressively lower, which caused the well yield to decline. A relatively lower hydraulic gradient ----, so recovery is often substantially slower than drawdown (e.g., Robinson, Noble & Saltbush, 2004).**" Again, that red flag should be of critical concern to County decision makers. Wells throughout the Nipomo area have failed because of the poor recovery in fractured shale.

3.8 V.P.-29 2nd ¶: "**Although -----assume radial flow of groundwater toward a pumping well, flow within fracture systems commonly have more linear geometry. For radial flow systems, the rate of drawdown gradually decreases with pumping duration because the volume of aquifer influenced by pumping increases *by the distance squared*. For a system of linear fractures ----, the volume of aquifer influenced by pumping can increase linearly with distance, so the rate of drawdown with pumping *will be faster than for radial systems***." Wow, if the rate of drawdown is tied to the distance squared for radial flow systems, and linear fractures are faster, SLOC better be prepared for the unexpected consequences should the project proceed.

3.10 V.P.-30, 2nd ¶ & -32, 1st ¶: While I understand the rationale, I do not believe that folks in million dollar project homes can survive on a total water demand rate of 0.44 afy per residential lot. How many individual swimming pools and/or spas (mentioned in last ¶ on pg V.P.-33) are included in this 0.44 afy/lot? These will not be typical residential lots. How does this overly conservative use compare with similar cluster developments? This will surely become a problem for SLOC.

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3.11 V.P.-31, last ¶: Editorial – the 222.3 was changed to 226.7 in Table V.P-6. Not catching these minor issues in a FEIR is problematic. Wonder what else was missed?

3.12 V.P.-32, underlined portion of 3rd ¶: Why is the use of floating pond liners on ag reservoirs to save 8.0 afy lost to evaporation a "**may**" item. Those covers should be a "must" requirement to gain approval of the FEIR.

3.13 V.P.-32 last ¶: Why does the lack of achieving equilibrium in the wells not violate the CEQA criteria stating **"---interferes substantially with ground water recharge such that there would be a net deficit in aquifer volume or a lowering of the ground water table level---."** In spite of much arm waving, the FEIR does not indicate when, if ever, equilibrium can or will be achieved. This issue was discussed in comment 3.4 & 3.5 above. Is this not a direct violation of CEQA requirements?

3.14 V.P.-33, upper middle of 3rd ¶: Again, "**In addition long-term yields of water wells producing from bedrock aquifers, which may have linear fracture systems, commonly are *substantially less* than short-term yields**." Also note acknowledgement that rainfall during the testing program was 138% of average.

3.15 V.P.-33, lower middle of 3rd ¶: Trying to use the groundwater production rates from two older irrigation wells to help justify production rates from the two project wells appears fatally flawed. The older irrigation wells are a long distance from and in vastly different geologic formation than the project wells, and their production has reportedly diminished during the current drought. Besides, wells immediately across HW101 have failed or lost production and had to be replaced along with having avocado trees "stumped out" due to lack of adequate water. Trying to use the 2 irrigation wells to help rationalize production from the 4 project wells should not be acceptable.

3.16 V.P.-33, end of 3rd ¶: States **"---trends based on the Phase 3 pumping data indicates that Phase 3 pumping rates are sustainable for at least several decades."** This optimistic statement is in conflict with other statements such as those noted in comments above. SLOC responses RMT-45, -58, -82 (& others) states "Please note that project well yields would be less than Phase 3 rates --." In fact SLOC response RMT-82 states "---Phase 3 pumping rates are greater than the rates estimated for sustainable production." Somehow I get the impression that the facts are getting twisted and these types of overly optimistic statements imply a contradiction with other information such as comments 3.3, 3.5, 3.7, 3.8 & 3.14 above.

3.17 V.P.-33, last ¶: The group of 7 conservation measures does not have a number 4. Why? (Editorial)

3.18 V.P.-34, 1st ¶: The punch line statement is that "**---the proposed water source is adequate to serve the project because the estimated project demand (46.2 afy) is less than the estimated sustainable yield (62.4 afy) for wells 10, 11, 12, and 15**." County decision makers should be very cautious about this overly optimistic statement based on the comments above and also those included in my still appropriate water resource comments submitted in my 23 Aug 2013 letter.

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NOTE: The following issues are extracted from Appendix H, item 1, Geosyntec document dated October 2011. Extracted information is shown in bold. Also my specific comments about that document are included in my 23 Aug 2013 review of the RRDEIR.

3.19 Pg ES-1, 2nd ¶: Note that "**---four new wells completed in *fractured bedrock* ---".** As is mentioned later, it is very difficult to estimate future water production from this type formation.

3.20 Pg ES-2, 1st ¶: "**The Phase 3 testing established that water levels continued to drop at three of the four wells---. Thus, equilibrium ground conditions were not attained with the Phase 3 production rates and depletion of groundwater storage continued**." Also be aware that use of the fourth well, well 11, is limited due to its ties to Los Berros creek (see 3rd ¶). County decision makers should carefully consider these statements.

3.21 Pg ES-3, 2nd ¶: **"Estimates of transmissivity of the fractured rock aquifers based on analysis of data recorded during the three phases of pumping tests are *substantially lower* than previous estimates based on *shorter term pumping tests* (C&A Oct 2005; Fugro Jun 2009). This indicates that the long-term capacities of the fractured bedrock aquifers to transmit groundwater are lower than previously estimated and sustainable projection potential of the well based on the short-term tests were *unrealistically high*. Initial yields from wells in fractured bedrock aquifers often are not representative e of longer-term yields, which are typical lower**." The facts and cautions contained in this paragraph are critical. In fact severe doubt could be placed on any conclusions based on the Phase 1 and 2 well test results.

3.22 Pg ES-3 & -4, last ¶: "**We caution that rainfall during the testing program was 138% of average, and that long-term yields water wells producing from bedrock aquifers, which may linear fracture systems, are *substantially less than short-term yields***." These Geosyntec cautions must bear heavily of County decision maker evaluations of the overly optimistic estimates of water availability and sustainability. Perhaps the prudent thing to do is for them to request additional well while the area is suffering from a four year drought. Let's see how these wells held up and can produce today without the demands of the development. History shows that the county will periodically suffer years-long severe droughts during the long life of the development.

3.23 Pg 2, Footnote 4: This footnote defines the procedure and success criteria for Method 2 of the California Water Code for evaluation of well capacity in fractured bedrock. At Laetitia, Only Method 1 has been used for previous testing. Method 1 testing produced questionable, subjective and controversial conclusions. Therefore it seems only prudent to test again during the drought using Method 2 which is much more cut and dried – either the wells pass or they fail based on factual test results, not subjective evaluation and interpretive results analyses.

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3.24 Pg 3,1st ¶: Note that Geosyntec "**---was not provided with a workplan or testing data during the initial two phases of testing**." Apparently CHG defined and executed Phases 1 and 2 without oversight and review by Geosyntec. Sort of like giving the QC stamp to the machinist.

3.25 Pg 3, 2nd ¶: **"Based on continuing decline of water levels exhibited in three of the four wells tested during the seven-month period, Geosyntec expressed concern that the average pumping rates from these three wells used during the testing *is not sustainable***." Well 11 is the forth well that is tied to Los Berros creek and has production restrictions. It should be becoming evident to even the casual reviewer that water availability and sustainability for the project is a potential major problem.

3.26 Pg 6, ¶ 3.1 last sentence: "**The majority of wells in the vicinity of the Project Site are completed within fractured bedrock aquifers in the Obispo and Monterey Formations**." Correct and it should be further noted that many if not most of wells in the vicinity have either failed or are producing much less water. Again, there is no new source of water, just more straws pulling out what little water still exists.

3.27 Pg 8 & 9, ¶4.1, 2nd sentence: **"For each phase the pumping *alternated between two pairs of wells*: ---"** This is an important fact since the 4 wells were not concurrently during the testing periods as will needed during production to satisfy the project demand. One would expect the water levels to drop even more if the wells were pumped concurrently and continuously. Again this could become a problem.

3.28 Pg 9, 3rd ¶: Mentions "---**production from the four wells over the 15 months---**" but that was the total span, not production duration that was more like 6 ½ months. Again, like the infrequent mention of two wells paired at a time alternating with the other pair, tends to over inflate the perception of the amount of actual test pumping for each well.

3.29 Pg 10, 2nd ¶: "**These hydrographs illustrate that water levels in Wells 10, 14, and 15 *never stabilized*, but exhibited *continuing drawdown* throughout the course of the three phases of pumping**." This is a problem! The report continues:"**The detailed hydrographs also illustrate that *recovery of water levels in Well 14 and 15 between the pumping phases*."** This illustrates another aspect of the same problem – there is insufficient water without data manipulation.

3.30 Pg 10, last ¶: "**Based on the fact that water levels in 3 of the 4 wells (Wells 10, 14, & 15) were still generally dropping during the Phase 3 pumping, the groundwater in the aquifers near these wells did not reach equilibrium levels, and continued pumping at the Phase 3 rates will continue to deplete aquifer storage**." Same problem as stated by Geosyntec – too little water.

3.31 Pg 12, last sentence of last ¶: "**However, production rates from other wells in the area could decrease if pumping from project wells is conducted in excess of sustainable yields of the aquifers, which would result in general lowering of the water levels due to depletion of groundwater storage**." Another message that is not good news for neighbors.

3.31 Pg 13, 1st ¶: The following statement relates to 4 older irrigation wells: "**Although there are only a few data points for each well over periods of several years, the data show a general decline in groundwater elevation at these wells over 30 years."** As I have mention before, many if not most Nipomo area wells, including at least 2 on my own property, have a similar history of decline. The last thing the area needs is another new user of large amounts of water.

3.32 Pg14, 1st ¶: "**If a new equilibrium condition is attained the pumping rate theoretically may be sustainable with no further decline in water level (i.e., no additional depletion of groundwater in storage). However, the time to achieve equilibrium pumping conditions can take decades or centuries. And if the ground water pumping exceeds the potential for capture, new equilibrium conditions are not possible (Bredehoeft & Durbin 2009)."** Note the major **"ifs**" contained within this statement. The project wells have shown no tendency to achieve equilibrium and cannot be expected in the foreseeable future – at least no data justifies that expectation. These problems should not be ignored by County decision makers.

3.33 Pg 14, 3rd ¶: "**The Phase 3 testing established that water levels continued to drop in 3 of the 4 wells with pumping at the estimated sustainable yield rates - --. Thus, equilibrium groundwater conditions were not attained with the Phase 3 production rates and depletion of groundwater storage continued."** Geosyntec makes these points thought out the document and the implications are severe. The careful tailoring of proposed pumping rates to meet the project demand leaves little in any margin for error. The analyses are overly optimistic and lack the conservative balance needed to accommodate the occurrence of unknown problems. Remember that estimates are just best guesses given by informed experts.

3.34 Pg 15, 2nd ¶ 1st sentence: "**The resulting revised estimate of sustainable yield from the four wells is approximately 65 afy, which equates to an average pumping rate of 42 gpm**." However this statement implies an unstated and unrealistic pumping schedule for all 4 wells of 24 hours per day, 7 days per week, 52 weeks per year for the life of the project. Instead pumping was alternated between two pairs of 2 wells each at a time and testing was not continuous. I maintain that a 24/7/52 pumping schedule is neither possible nor sustainable.

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3.35 Pg 16, 2nd ¶: "**Although equilibrium conditions were not attained during the Phase 3 pumping rate, based on evaluation of the water level response to testing at Well 15, the Phase 3 pumping rate can *likely* be sustained for *a few years* before the water level would drop below the top of the screen**." Even if these overly optimistic water projection proves to be correct, then what? Without the estimated water from Well 15, the system is broken. The development should not be approved if only "a few years" of water from the critical well is anticipated.

3.36 Pg 16, last sentence in 2rd ¶: "**A 25% increase in the long-term pumping rates calculated for Well 15 can *likely* be sustained for *many years* and can make-up a portion of the decrease from Well 11."** These two similar items should not make County decision makers comfortable with the future once the development is finished. The project has been on the books for over 15 years and yet can only estimate water will be available from the key well (15) for maybe either a few or many years. Then what?

3.37 Pg 17, 1st ¶: The end of the 2nd sentence states: "**---which equates to 38.7 gpm, is less than the MDD (maximum demand month) of 46 gpm. Nonetheless, ---the capacity of the 4 wells is more than adequate to sustain a continuous flow of 46 gpm for a month**." How was the 4.06 af (30.6 gpm continuous) demand for June determined? While the data shows an overdraft for the MDD in June, data were not but should be presented for other key months, including the high usage months of July through September. If demand in June has the potential to put the system in deficit, what about demands for other summer months, individually or consecutively?

3.38 Pg 18, 2nd ¶ of 4.5.2: "**Generally, the transmissivity calculated from the first cycle of pumping was substantially higher than the estimates based on long-term pumping. The initial yield from fractured bedrock commonly is *not representative long-term yield*.**" Again, Geosyntec offers cautioning facts to County decision makers.

3.39 Pg 19, 2nd ¶ of 4.6.4: "**Because water levels did not equilibrate, but continued to drop during the pumping tests, ----results in generally decreasing specific capacities and transmissivities with time."** Again, another adverse result of wells not achieving equilibrium. Not sure all these disclaimers will give County decision makers the assurance needed that water is and will continue to be available and sustainable.

3.40 Pg 20, last ¶: "**The estimates of transmissivity of the fractured rock aquifers based on --- data recorded during the three phases of pumping tests are *substantially lower* than the previous estimates ----. This indicates that the long-term capabilities of the fractured rock aquifers to transmit groundwater are lower than previously estimated and sustainable production potential of the wells based on short-term tests were *unrealistically high***." These statements attacking previous estimates should make one cautious to accept more recent estimates. Again, estimates are educated guesses but the fact remains that without conclusive and ill reputable evidence experts may not agree. And estimates may or may not be reality.

3.41 Pg 21, 1st ¶ at the top: Note that this a seven line sentence and paragraph can be broken into two points by the larger "**IF**" in the 4th line: "--- **if groundwater modeling or other calculations are conducted to *further evaluate* groundwater production and *possible long-term drawdown* of groundwater levels in response to proposed pumping (e.g. Bredefoeft, 2002d)."** What I get from this is that the current estimates represent the best guesses by Geosyntec given a lack of data to perform more detailed analyses on groundwater production and long-term drawdown. Seems to me SLOC can ill afford to not collect the additional data for further evaluation. Let's start with data defining condition of the wells now after four years of drought. There has been no well testing or production data for over four years and conditions have certainly changed.

3.42 Pg 21, 2nd ¶ in 4.7: "**Initial yield from wells in fractured bedrock aquifers often is *not* representative of long-term yields, which are typically lower. As groundwater is released from storage in fractures, the hydraulic gradient toward the well becomes *progressively lower,* which causes the *well yield to decline*. And, a relatively lower hydraulic gradient at the end of the pumping period limits the rate of ground water flow back into the area of drawdown, *so recovery often substantially slower than drawdown* (e.g. Robinson Noble & Saltbush 2004)."** While these statements may seem redundant, Geosyntec was compelled to include the message several times in slightly different context. But the point should be the same – water estimating is risky business and there are no guarantees on availability or sustainability. Geosyntec has used numerous alerts, disclaimers, and cautions that County decision makers need to consider along with the often overly optimistic favorable conclusions. What is critical are the future consequences should the estimates by the experts again be wrong? Do not just look at possibly inflated numeric estimates, but strongly consider the factual statements of concern and caution; statements that reflect a more conservative leaning on the water resource problem.

3.43 Pg 21 Note that Section 5 contains **CONCLUSIONS AND RECOMMENDATIONS**. The section summaries some information that has already been reviewed. However, for completeness, major issues will be repeated.

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3.44 Pg 21 & 22, 1st ¶ in section 5: **"Continued *general decline of water levels* in Wells 10, 14 and 15 during the three phases of pumping indicates that stable equilibrium groundwater conditions *were not attained.* Moreover continued decline in water levels at 3 of the 4 wells during the Phase 3 pumping ---will not result in full recovery---but will cause *additional depletion of groundwater storage*."** Recall that Well 11 has restricted production due to proximity of Los Berros creek. Still, the message for County decision makers in these cautionary statements remains the same - availability and sustainability of groundwater is questionable.

3.45 Pg 22, 2nd ¶; "**The projections of *downward water level trends* exhibited during testing and the *unknown time to possibly* achieve equilibrium conditions ---is an important issue with respect to *long-term viability of the wells* to meet the proposed project demands." Again,** the message for County decision makers in these cautionary statements remains the same - availability and sustainability of groundwater is questionable. Also note questioning of the **"long-term viability**" of the wells to meet demand – unrealistic demand so slow many consider it unachievable.

3.46 Pg 22, 3rd ¶: "**With continued pumping at Phase 3 rates, an expanding cone of depression of groundwater elevation will result in capture of more groundwater and an equilibrium conditions accomplished by *stable water levels may be attained*. However, equilibrium groundwater flow conditions *may not occur for decades or longer* (e.g. Alley et al. 1999). Based on the water level records during Phase 3 pumping, *if* the linear trend in *decreasing groundwater elevations* continues at the rates observed during the Phase 3 testing, the water levels in the will likely drop below the top of the well screens – *within months* in Well 10 and** 14, and *within a few years* in Well 25." Note the use of such unquantified terms as "may, may not and likely" along with similar vagaries are a problem. Reports documenting engineering analyses should provide an assessment of the approximate probability of occurrence of the event. Are the probabilities a coin flip of 50/50, or 51/49, or 75/25, or 90/10 or whatever? Other unquantified event occurrences mentioned elsewhere in FEIR Section V and Appendix H1 should be clarified to aid County decision makers. Note that attachment 1 to my 8 Jun 2012 letter provides details on 14 separate uses of the term "likely" in the Appendix H1 Geosyntec report that need attention to increase the credibility and usefulness of the document.

While having water levels drop below the top of well screens is not catastrophic, but it is a major step down the slippery slope of water problems- (see next ¶ on page 22). Again, these alarming statements of concern need to be included in County decision maker deliberations.

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3.47 Pg 22, 2nd & 3rd sentence of 4th ¶: "**However, drawdown of water level below the top to the screen typically *decreases the production capacity* of the wells because as the water level drops, the aquifer saturated thickness (and thus the transmissivity) near the wells *will decrease*. Nonetheless, the long screened intervals *may* allow pumping to be sustained with gradually decreasing water levels *for many years*."** Again, note use of "may" and lack of justification for or reference source of the phrase "for many years." How was this opinion justified with data? And how long is "many years" when compared to periods of severe drought or the life of the new homes?

3.48 Pg 22, last 3 sentences in 5th ¶: Note 3 uses of the phrase "**base flow in Los Berros Creek**." As shown by info in 2.2 on page 5, the nearby gauging station has not recorded surfaces flows n the creek for many years. My favorite native trout stream as a youth has been essentially dry since the early 1980s. Also, curtailing the use of Well 11 during June and July in addition to August through November should be considered since the early summer is also extremely dry.

3.49 Pg 23, 2nd sentence of ¶ 1: "**Consequently, a production rate from Well 15 that results in *gradual drawdown is more sustainable at Well 15 than the other wells*.**" Perhaps, but the key question is sustainable for how long – months, years or decades? Clearly even a "***gradual drawdown*** will cause production from Well 15 to faultier and eventual fail, which would result in the complete failure of the proposed water system. County decision makers are owed an answer as to how this might take given possible periods of severe droughts. Again, it appears that a essential element in the decision process is how the 4 wells have survived the current 4 year drought? Addition testing this summer during a drought is critical to the realistic assessment and forecast of future productions capabilities. Recall that Phase 3 testing, which providing most of the data, was conducted when rainfall was 138% of average.

3.50 Pg 23, 2nd & 3rd ¶: These paragraphs just restate information contained in earlier sections of this document. Therefore, observations and comments have already submitted that basically cast doubt concern on the validly of the overly optimistic and unsupportable statements. The issues raised by comments 3.34, 3.37, 3.38, and 3,42 above should be considered. County decision makers should take into account the numerous issues that have been raised which make the consequences of approving this project too high a long-term risk.

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3.51 Pg 23, 2nd sentence of last ¶: "**However, *we caution that rainfall during the testing program was 138 % of average,* and also that long-term yields of water wells producing from bedrock aquifers, which may have linear fracture systems. Commonly are substantially less than short-term yields.**" This key cautionary summary statement by Geosyntec represents the capstone of the document and certainly raises concern for all involved as to the availability and sustainability of groundwater resources to support the project. Also, note their strong implication that the testing (especially Phase 3) was short rather than long-term.

3.52 Pg 23, last sentence, last sentence: Uses production from 2 old irrigation wells to justify the viability of long-term production of 4 project wells. Should be rejected, see comment 3.15.

The bottom line on the water resource and the message for County decision makers is that the availability and sustainability of groundwater is questionable if not unreasonable. Addition testing during the drought MUST be mandatory before approval (using Method 2?).

17 July 2015

Brian Pedrotti, Project Manager
County of San Luis Obispo
Dept. of Planning & Building
976 Osos St., Room 200
San Luis Obispo, CA 93408

Dear Mr. Pedrotti:

I write to you on behalf of the 200+ members in good standing of the Nipomo Chamber of Commerce to relay to you our firm support for the planned Reserve at Laetitia Agriculture Cluster Project.

The Nipomo Chamber of Commerce has reviewed the proposed Agriculture Cluster Project and toured the site and came away very impressed. The thorough planning and the attention paid to environmental, safety and cultural concerns on the property lead us to believe that this is a thoughtful and responsible endeavor. The Laetitia family are longtime supporters and believers of our lifestyle on the California Central Coast and we feel that the approach taken in planning the Reserve shows continued commitment to those beliefs.

We strongly feel that this project will provide a much needed economic benefit to our community specifically and to the county in general. With a predicted 500+ jobs, an anticipated $102 million in local annual economic benefits, property tax revenue of $4.7 million at build out and the resultant increase in funding for the Lucia Mar Unified School District we believe this to be a win-win opportunity. The predicted revenue for the City of Arroyo Grande and for Nipomo is yet another reason the Chamber of Commerce endorses The Reserve. We look forward to the project moving forward and delivering the resultant benefits to our community.

Si

Richard Malvarose

cc: SLO County Board of Supervisors
SLO County Planning Commission
Jim Bergman, Director, Planning & Building

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July 10, 2015

VIA FEDEX AND E-MAIL

Mr. Brian Pedrotti
Project Manager
County of San Luis Obispo
Department of Planning and Building
County Government Center
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Re: **Comments Regarding The Final Environmental Impact Report For The Laetitia Agricultural Cluster Subdivision Tentative Tract Map and Conditional Use Permit**

Dear Mr. Pedrotti:

The project team for the Laetitia Agricultural Cluster Project has carefully reviewed the Final Environmental Impact Report for the Laetitia Agricultural Cluster Subdivision Tentative Tract Map and Conditional Use Permit ("Final EIR" or "FEIR"). Unfortunately, the FEIR maintains the erroneous conclusion that the Rural Lands portion of the proposed agricultural cluster project does not qualify for the parcel bonus applicable to agricultural cluster projects. This conclusion is contrary to the applicable County ordinance and to the County's established policies. In addition, the FEIR's conclusions regarding the Mitigated Project - Applicant Proposed Alternative ("Mitigated Project") overstate the Class I impacts and are unsupported by substantial evidence in the record. The FEIR also continues to impose infeasible and disproportionate mitigation measures on the project. This letter and the attachments address issues with the Final EIR and provide evidence and support for the decision-makers to conclude that the project Applicant is entitled to develop the proposed 102 parcels, to find that the Mitigated Project would result in only a single Class I impact, and to support necessary and appropriate modifications to the Final EIR before it is certified.

I. The Applicant Is Entitled To A "Density Bonus" In Both Rural And Agriculture Lands For The Proposed Agricultural Cluster Project

The FEIR's conclusion that the applicable 2003 Land Use Ordinance ("2003 LUO") does not allow a density bonus in the Rural Lands portion of a proposed agricultural cluster project is inconsistent with the 2003 LUO and with County precedent. (See FEIR, IV-11 – IV-20.) As previously explained, the 2003 LUO, along with the prior findings by the County and prior analysis by County staff, all establish that the "density bonus" for agricultural cluster projects applies to both Agriculture Land and Rural Lands that are in agricultural use. (See December 4, 2012 Comment Letter "LV-11" [explaining density calculations for the project]; see also August 23, 2013 Comment Letter "LV-15" [explaining basis for density bonus in Rural Lands]; October 1, 2013 Comment Letter "LV-25" [providing documents evidencing density bonus applies to both

designated Rural Lands and Agricultural Lands for agricultural cluster projects]; October 2, 2013 Comment Letter "LV-28" [describing County precedent for agricultural cluster projects and history of Laetitia agricultural cluster project with respect to parcels in Rural Lands]; see attached LV-33-1 [providing summary chart regarding parcel bonus for agricultural cluster projects].)

The 2003 LUO clearly states that both lands designated as "Agriculture" lands and "Rural Lands" are eligible for agricultural cluster projects. (See 2003 LUO, at 22.22.150(B); see also Comment Letter "LV-34," submitted concurrently [providing copy of 2003 LUO].) The 2003 LUO also states that it is "the policy of the Board to *encourage* the use of [agricultural] clustering by allowing the number of clustered parcels to equal the number of dwelling units normally permitted on a standard agricultural land division" (i.e. provide a parcel bonus for agricultural cluster projects). (*Id*., at 22.22.150, emphasis added.) The 2003 LUO does not distinguish between Rural Lands and Agricultural Lands in providing a parcel bonus for agricultural cluster projects because the primary focus is on whether the property is in agricultural *use*, not whether the property is *designated* as "Agriculture Land." (See 2003 LUO, at 22.22.150.) The parcel bonus is provided to promote the preservation and protection of agriculture in the County through agricultural cluster projects, regardless of the land use designation. The County staff's position in the FEIR that the 2003 LUO does not allow a parcel bonus in Rural Lands is inconsistent with the structure and intent of the agricultural cluster ordinance and inconsistent with the Board's stated policy of *encouraging* agricultural cluster projects by providing a parcel bonus for such projects.

The County's policy of encouraging agricultural cluster projects through the parcel bonus continues even under the current Land Use Ordinance, and was confirmed by County staff during the unsuccessful attempt in 2012-2013 to amend the ordinance so that Rural Lands no longer qualified for agricultural cluster projects and there would no longer be a parcel bonus. (See Comment Letter LV-25 [providing excerpts of 2012 and 2013 Environmental Impact Report for Agricultural Cluster Program]; see also Comment Letter LV-15 [discussing those environmental documents].) The environmental documents prepared for the proposed amendments clearly describe the County's established ordinance and policy of providing a parcel bonus for agricultural cluster projects, including on Rural Lands that are part of those projects. County staff now argues that those environmental documents are irrelevant because the Project is vested under the 2003 LUO. (See FEIR, at XI.B-248 [responding to comment LV15-7].) However, the environmental documents discussing the current LUO are relevant because they confirm that the current LUO, like the 2003 LUO, provides a parcel bonus in both Rural Lands and Agriculture Lands for agricultural cluster projects.

The applicant has a vested right to proceed with development of an agricultural cluster project with a "density bonus" on both Rural Lands and Agricultural Lands. The applicable 2003 LUO provides for this density bonus, and it was the established policy of the County to allow a density bonus for agricultural cluster projects at the time the application for the Laetitia project was completed. That policy was confirmed through the County's findings in approving the Talley Farm/Biddle Ranch agricultural cluster project, which like this Project is comprised of both designated Rural Lands and Agriculture Land. (See Comment Letter LV-25, Enclosure 1 [providing copy of County finding for Talley Farm/Biddle Ranch project, finding that the "number

of parcels allowed on the site is equal to the maximum number of dwelling units that could be allowed on a standard subdivision (i.e. two per parcel)"].) This Project is vested under the 2003 LUO and the County's established policy of providing a parcel bonus for agricultural cluster projects, and therefore, the County must approve the parcel bonus as applicable for the entire site and allow 102 parcels. The County is not free to change its established policy more than a decade after the Applicant proposed this Project in reliance on the existing 2003 LUO and the County's policy of encouraging agricultural cluster projects by allowing a parcel bonus for these projects.

II. The Majority Of The FEIR's Alternatives Are Infeasible And Do Not Meet Most Of The Project Objectives

Most of the alternatives analyzed in the FEIR are unreasonable and infeasible. (See June 8, 2012 Comment Letter "LV-8-1" [addressing project alternatives]; see also August 23, 2013 Comment Letter "LV-14" at pp. 5-11, "LV-14-1," "LV-14-2" [same]; August 23, 2013 Comment Letter "LV-16" at pp. 3-5 [same]; May 7, 2014 Comment Letter "LV-32" [explaining proportionality requirements with respect to governmental land use approvals].) Many of the alternatives are legally infeasible because they seek to reduce the number of parcels below the number allowed by the 2003 LUO. (See August 23, 2013 Comment Letter "LV-13" [explaining applicant's vested rights and legal infeasibility of many of the FEIR's project alternatives].) In addition, most of the alternatives are unreasonable and do not meet the project objectives because they are not agricultural cluster project alternatives. Only the Mitigated Project allows the applicant to proceed with the development authorized by the 2003 LUO, in a manner that meets the project objectives *and* mitigates all but one environmental impact to less than significant (air quality).

In particular, the FEIR's conclusion that the "Redesigned Project B – Single Cluster Alternative, 93% Reduction" "environmentally superior" alternative is consistent with most of the project objectives is unreasonable. (See FEIR, at VI-36 – VI-37.) The FEIR presents the novel idea of an alternative being "potentially consistent" with project objectives. (*Id*. at VI-66.) However, CEQA requires consideration of project alternatives that meet most of the project objectives and does not permit the reviewing agency to modify the project objectives through only requiring possible or partial consistency with project objectives. (See 14 C.C.R. §15126.6(a) [requiring an EIR to describe a range of reasonable alternatives which would "feasibly attain most of the basic objectives of the project"]; see also 14 C.C.R. §15126.6(c) [identifying failure to meet most of the project objectives as a basis for eliminating alternatives from detailed consideration in an EIR] .) By definition, a 7-residential-lot project is not an alternative to the proposed agricultural cluster project because the property owner could develop more than 7 residential lots under existing zoning, without any requirement of preserving land in open space and agricultural easements. The 93% Reduction alternative should be rejected on its face.

III. The Mitigated Project Would Result In Only A Single Class I Impact

As previously explained, the Mitigated Project reflects the applicant's efforts to reduce and mitigate environmental impacts, after careful consideration of the project objectives and project site. (See August 23, 2013 Comment Letter "LV-21" [describing efforts of applicant and project

team to minimize impacts and concluding that Mitigated Project would result in only one Class I impact].) The Mitigated Project would result in only a single Class I impact – an air quality impact. (See November 6, 2008 Comment Letter "LV-6" and attachments [providing analysis of environmental impacts]; June 11, 2012 Comment Letter "LV-9" and attachments [explaining how Mitigated Project reduces environmental impacts to less than significant]; August 23, 2013 Comment Letter "LV-16" [addressing EIR's significant impact conclusions for Mitigated Project], see also August 23, 2013 Comment Letter "LV-16-2" [same].) Therefore, the FEIR's conclusion that the Mitigated Project would result in fifteen Class I impacts is unreasonable and unsupported. (See FEIR, at VI-53 – VI-64.) Moreover, the FEIR's treatment of impacts is arbitrary and inconsistent with County precedent, particularly for agricultural cluster projects. (See October 10, 2008 Comment Letter "LV-1" [describing and comparing treatment of impacts for other projects]; see also November 6, 2008 Comment Letter "LV-5" [same]; Comment Letter "LV-34," submitted concurrently [providing excerpts of environmental documents for other projects approved by the County].) In sum, there is substantial evidence to support the County finding that the Mitigated Project will result in only one Class I impact, and of import, is that no project within the County would be able to avoid such an air quality impact as a significant impact.

A. Aesthetic Resources

Aesthetics from Highway 101 and cumulative impact (AES Impact 4 and AES Impact 11):[1] The FEIR's conclusion that the Mitigated Project will result in aesthetic impacts with respect to views from Highway 101 is discriminatory and inconsistent with the County's treatment of other projects, including other agricultural cluster projects, and prior projects on the same site. (See FEIR, at V.A.-15 – V.A.-19, V.A.-30 – V.A.-31, VI-11, VI-53 – VI-54; see also Comment Letter "LV-34" [providing excerpts of environmental documents for other projects].) In fact, the County previously granted a development plan for the winery and tasting room on the project site, to be located significantly closer to Highway 101 than the homes that would be developed as part of the currently proposed agricultural cluster project. (See Comment Letter "LV-34" [providing copy of 1984 resolution and staff report for Laetitia winery development plan].) In approving the development plan, the County allowed an exception to the then-applicable building height limits, and allowed two 37-foot towers to be built and found that the project would not have a significant adverse visual impact, despite the proximity to Highway 101 and the 37-foot towers. (*Id*.) These past County approvals and findings demonstrate that the County would be acting arbitrarily if it accepted the FEIR's conclusions that the Project would have significant aesthetic impacts.

The FEIR avoids addressing the issue of consistent evaluation of environmental impacts by arguing that CEQA requires site-specific, individual analysis. (See e.g., FEIR at X.B.-5 [providing response to comments regarding consistency and arguing that "each project is assessed, pursuant to CEQA, based on the environmental setting of each site, and analysis of a specific project's effects on the environment"].) While it is true that CEQA requires a site-

[1] The Final EIR renumbers what was originally "AES Impact 18" as "AES Impact 11." (See FEIR, at V.A.-31.) However, the FEIR does not consistently make that change throughout the document. (See e.g., FEIR, at VI-3, VI-54 [listing same impact as AES Impact 18].)

specific analysis, the County still has a legal obligation to consistently apply the same standards and analytical approach in evaluating the potential environmental impacts of proposed projects, including potential aesthetic impacts. The County's treatment of prior projects supports a conclusion that the Mitigated Project will not have significant aesthetic impacts and that it would be arbitrary for the County to conclude otherwise.

The Mitigated Project would not result in significant aesthetic impacts. It is unlikely that the Mitigated Project's homes would be visible from Highway 101 because vehicular traffic would be traveling at high speeds. Even if there was the potential for visibility, the homes would be over a mile away and thus aesthetically de minimis. (See August 23, 2013 Comment Letter "LV-16" at 2.) In addition, the FEIR's analysis of aesthetic impacts is based on photos taken with a camera utilizing a telescopic lens and photo-simulations, and therefore, is not based on a realistic assessment of potential views. (See FEIR, at V.A.-9.) A realistic assessment of potential views is conducted by driving 65 mph on Highway 101 and looking over a mile out. The Mitigated Project is designed to protect aesthetic and scenic resources of the property by: 1) clustering residential development and preserving agricultural and open space; (2) locating roads and structures to minimize visual impact; and 3) screening development through use of landforms, vegetation, and color choices. (See October 21, 2013 Comment Letter "LV-29" [describing consistency with goals and policies for scenic resource areas].) Therefore, the Mitigated Project will not result in significant impacts to aesthetic resources.

B. Agriculture Resources

Farmland Conversion and cumulative impact (AG Impact 1 and AG Impact 4): The FEIR's conclusion that the Mitigated Project would cause significant impacts to agricultural resources is unreasonable and unsupported. (See FEIR, at V.B.-16 – V.B.-21, V.B.-24 – V.B.-25, VI-11.) The FEIR continues to treat the conversion of agricultural lands to residential use as a significant agricultural impact, even though the Mitigated Project will not cause a net loss in cultivated agriculture and would protect approximately 93% of the project site in permanent open space/agricultural easements. (See October 29, 2008 Comment Letter "LV-6-6" [providing professional opinion that replanted areas will be successfully cultivated]; see also August 22, 2013 Comment Letter "LV-18" [explaining that Mitigated Project will result in "zero net loss of productive vineyards"]; April 2, 2014 Comment Letter "LV-31" [explaining that case law supports the use of agricultural conservation easements as mitigation for agriculture resource impacts].) The Mitigated Project will not reduce the amount of cultivated agriculture on the project site.

Land Use Conflicts Between Residential and Agricultural Uses (AG Impact 2): The Mitigated Project will not result in land use conflicts between residential use and agricultural production. (See FEIR, at V.B.-17 – V.B.-21, VI-11.) The FEIR's conclusions that the proposed buffers for the Mitigated Project "would be inadequate, and inconsistent with the County's buffer policy" lack support. (FEIR, at V.B.-17, VI-11.) The Mitigated Project's agricultural buffers were carefully designed for each residential lot, taking site conditions into account, and will ensure residential and agricultural uses are compatible. (See August 22, 2013 Comment Letter "LV-18" [providing expert opinion that site-specific buffers will ensure no impacts to agricultural operations].) The County Agriculture Department's recommendation of buffers of 500 feet around every lot (FEIR at V.B.-17) is advisory only and does not reflect the type of lot-specific

considerations that the applicable buffer policy recommends. (See LV-34 [providing copy of applicable buffer policy as appendix to General Plan].) Rather than the blanket 500-feet approach suggested by the Agriculture Department, the applicant considered the physical characteristics of each parcel and developed individualized buffers in light of those characteristics. Thus, the Mitigated Project's buffers are exactly the type of site-specific buffers recommended under the applicable buffer policy. There is no mandatory minimum buffer size that applies to the Mitigated Project and the County has no obligation to accept the Agriculture Department's conclusion that 500-foot buffers are necessary to avoid potential conflicts between residential use and agricultural use. The proposed buffers ensure there will be no such conflict.

C. Air Quality

Clean Air Plan and cumulative impact (AQ Impact 8 and AQ Impact 9):[2] Although the Mitigated Project would be consistent with the General Plan and policies that encourage agricultural clusters, the Mitigated Project would not be entirely consistent with all policies identified in the Clean Air Plan. Therefore, it is reasonable for the FEIR to conclude that the Mitigated Project would result in a significant impact with respect to air quality. (See FEIR, at V.C.-43 – V.C.-44, VI-11 – VI-12.) However, the FEIR double-counts the air quality impact as both a project-specific and cumulative impact. As explained previously, this treatment is inconsistent with CEQA. (See August 23, 2013 Comment Letter "LV-14" at 1-3 [addressing improper double-counting of environmental impacts].) Thus, a single impact to air quality is the only Class I impact that can reasonably be expected to occur as a result of the Mitigated Project.

D. Hazards and Hazardous Materials

Fire Hazards and Emergency Access (HM Impact 2): The FEIR's conclusion that the Mitigated Project will result in a significant impact associated with providing emergency access is not supported by substantial evidence in the record. (See FEIR, at V.G.-11 – V.G.- 13, VI-13 – VI-14.) The Mitigated Project includes a guarded gate that will provide emergency access and egress via the Laetitia Vineyard Drive that is acceptable to the California Department of Forestry and Fire Protection/San Luis Obispo County Fire Department ("CAL FIRE") and which will prevent non-emergency use of the secondary access by the Project. (See FEIR, at VI-13 – VI-14.) The FEIR's conclusion that the proposed emergency use of the Laetitia Vineyard Drive is not "feasible" lacks support. (*Id*.) The FEIR blindly accepts Caltrans' unsupported assertion that "identification of this road for secondary access is not consistent with the existing Encroachment Permit for the site." (FEIR, at VI-14.) However, the actual referenced Encroachment Permit does not limit the use of the Laetitia Vineyard Drive to existing uses, nor does it preclude use of the Drive for emergency access. (See Comment Letter "LV-34" [providing copy of 1984 Encroachment Permit file, as provided by Caltrans to applicant's representative in response to a Public Records Act Request].) Therefore, the Project site has

[2] The Final EIR renumbers what was originally "AQ Impact 9" as "AQ Impact 8" and renumbers what was originally "AQ Impact 10" as "AQ Impact 9." (See FEIR, at V.C.-43 – V.C.-44.) However, the FEIR does not consistently make those changes throughout the document. (See e.g., FEIR, at VI-3, VI-55 [maintaining original numbers for air quality impacts].)

an unrestricted right to use the Laetitia Vineyard Drive to access Highway 101 and that right includes access for emergency purposes.

It is absurd that Caltrans would take the position that the existing Laetitia Vineyard Drive cannot be used for emergency access to Highway 101. And the County has no basis for concluding that the Laetitia Vineyard Drive cannot be used in the case of an emergency. In fact, the Laetitia Vineyard Drive can provide necessary emergency access for the Project and for existing residences located within the canyon. Without this access, existing property owners have no recourse to evacuate their homes in the case of an emergency when their only escape is through bridges which may or may not be viable options for them. It is therefore in the interests of the County and its residents to recognize the Laetitia Vineyard Drive as a feasible means of providing emergency access. For these reasons, the County should conclude that the Laetitia Vineyard Drive provides acceptable and feasible emergency access for the project site and therefore, the Mitigated Project will not result in a significant fire hazard impact.

E. Noise

Agricultural Noise (NS Impact 3): The FEIR's conclusion that the Mitigated Project will result in significant noise impacts to residents due to noise associated with agricultural production is unsupported and contrary to CEQA. (See FEIR, at V.I.-17 – V.I.-19, VI-14.) As previously explained, these noise impacts are not impacts of the project on the environment subject to CEQA review, but rather, are the effects of the existing environment on the project. (See August 23, 2013 Comment Letter "LV-14" at 3-4 [explaining that such impacts are not environmental impacts for purpose of CEQA review].) Moreover, the Mitigated Project's site-specific buffers ensure that residents will not be significantly impacted by agricultural operations. Thus, the Mitigated Project will not result in significant noise impacts.

F. Public Services and Utilities

Cumulative demand for emergency services (PSU Impact 4): The FEIR's conclusion that the Mitigated Project will result in a significant impact associated with increased demand for emergency services is unsupported. (See FEIR, at V.L.-9 – V.L-11, VI-14.) The project applicant is willing to pay an in-lieu fee that will mitigate the project's proportional contribution to the need for a new fire station and additional personnel. (See FEIR, at V.L.-10.) It is speculative to assume that building a new fire station will result in significant environmental impacts. (*Id*., at V.L.-10 – V.L.-11.) Moreover, demand for public services is not an environmental impact under CEQA. (See August 23, 2013 Comment Letter "LV-14" at 4-5 [explaining that increased demand for public services is not an environmental impact under CEQA].) Therefore, the Mitigated Project will not result in significant impacts associated with public services.

G. Transportation and Circulation

Highway Operations and cumulative impact (TR Impact 4 and TR Impact 15): The FEIR improperly concludes that the Mitigated Project will result in significant impacts to Highway 101 and certain Highway 101 ramp junctions. (See FEIR, at V.N.-24 – V.N.-26, V.N.-39 – V.N.-42,

VI-17.) As previously explained, it is unreasonable for the County to apply a "one trip" threshold of significance for potential impacts to Highway 101 and ramp junctions. (See October 29, 2008 Comment Letter "LV-6-8" [addressing traffic impacts]; see also October 25, 2013 Comment Letter "LV-26" [addressing impact conclusions related to Caltrans facilities].) Substantial evidence supports the conclusion that the Mitigated Project will not change the existing levels of service and will not significantly impact operations on Highway 101 or at the ramp junctions at the Highway 101/Los Berros Road-North Thompson Avenue interchange.

Secondary Access and cumulative impact (TR Impact 10 and TR Impact 13): The FEIR unreasonably concludes that the Mitigated Project will result in a significant impact due to emergency access being provided via the Laetitia Vineyard Drive. (See FEIR, at V.N.-28 – V.N.-31, V.N.-37 – V.N.-38, VI-17.) As previously explained, the applicant is proposing to control the emergency access by installing a gate and a 24-hour guard who would control the gate. (See October 29, 2008 Comment Letter "LV-6-8" [addressing traffic impacts]; see also October 25, 2013 Comment Letter "LV-26" [addressing impact conclusions related to Caltrans facilities].) It is speculative and unreasonable for the County to conclude that a guarded gate will not effectively limit use of the Laetitia Vineyard Drive for emergency access. It is also unreasonable for the County to conclude that "a single unauthorized trip" on the Laetitia Vineyard Drive would result in a significant impact to Highway 101. (FEIR, at V.N.-30 – V.N.-31.) In addition, there is no record support for the conclusion that "implementation of gate controls that meet both Caltrans and CAL FIRE requirements is not feasible." (FEIR, at V.N.-30.) As discussed above, there is no support for Caltrans' position that the Laetitia Vineyard Drive cannot be used for secondary emergency access. (See FEIR, at V.N.-29 [stating that "the existing encroachment permit for the Highway 101 / Laetitia Vineyard Drive intersection is limited to trips generated by the existing vineyard and winery"].) The Project site has unlimited access to Highway 101 via the Laetitia Vineyard Drive. The proposed use of the Laetitia Vineyard Drive for emergency access is feasible and will not result in a significant traffic impact to Highway 101.

Road Improvements and secondary impacts to oak woodlands (TR Impact 9): The FEIR concludes that the Mitigated Project would result in significant secondary impacts to oak woodlands associated with road improvements. (See FEIR, at V.N.-30 – V.N.-33, VI-13, VI-62.) However, as explained in prior comment letters, the applicant's team met with County Public Works staff and CAL FIRE staff, who agreed that it is possible to design the road improvements in a manner that avoids the need to remove trees along Upper Los Berros Road. (See August 22, 2013 Comment Letter "LV-16-3" [describing agreement with CAL FIRE staff regarding road improvement design to avoid impacts to trees]; see also October 25, 2013 Comment Letter "LV-27" at 3 [describing road design options to avoid impacts to trees].) Thus, the Mitigated Project's road improvements will not result in significant secondary impacts to biological resources.

IV. The FEIR Improperly Double-Counts Environmental Impacts

The FEIR continues to improperly double-count the same impacts as both project-specific impacts and cumulative impacts. As previously explained, this treatment is inconsistent with CEQA and misrepresents the Mitigated Project's potential environmental impacts. (See August

23, 2013 Comment Letter "LV-14" at pp. 1-3 [addressing improper double-counting of environmental impacts].) The FEIR double-counts five environmental impacts for the Mitigated Project. (See AES Impacts 4 and 11, AG Impacts 1 and 4, AQ Impacts 8 and 9, TR Impacts 4 and 15, TR Impacts 10 and 13.) If this error alone is corrected, and assuming *arguendo* that the FEIR's significance conclusions are supported, the significant environmental impacts attributed to the Mitigated Project will be reduced by one-third, to 10 significant impacts. (See FEIR, at VI-64 [concluding that Mitigated Project will result in 15 Class I impacts].)

V. The FEIR Contains Errors With Respect To Air Quality Impacts And Mitigation Measures For Those Impacts

The FEIR contains numerous errors with respect to calculating air quality impacts and the mitigation measures required to address air quality impacts. As described in more detail in the attached letter (LV-33-2), these errors result in overly burdensome mitigation measures that are disproportionate to the project's expected air quality impacts. These errors need to be corrected before the FEIR is certified.

VI. The FEIR Imposes Mitigation Measures That Are Unreasonable, Infeasible, and Disproportionate

The FEIR imposes a disproportionate burden on the Mitigated Project by requiring the applicant to construct and implement plans to "lengthen the deceleration lane at the southbound and northbound off-ramps by 50 feet and lengthen the northbound on-ramp merge acceleration lane by 25 feet." (FEIR, at V.N.-26 [TR/mm-5].) As previously explained, traffic effects of the Mitigated Project on the Highway 101 mainline and at the ramp junctions would be nominal and would not significantly affect Highway 101 operations. (See October 29, 2008 Comment Letter "LV-6-8" [addressing traffic impacts].) The Mitigated Project would not change the current levels of service for Highway 101, nor would it significantly change the traffic densities. Despite the Mitigated Project's nominal effects on Highway 101 ramp junctions, the FEIR imposes a mitigation measure that requires the applicant to lengthen deceleration and acceleration lanes for Highway 101 ramps. (See attached letter "LV-33-3" [addressing traffic impacts and ramp mitigation measure for Highway 101].) The ramp mitigation measure is unreasonable, infeasible, and disproportionate to the Mitigated Project's nominal traffic impacts.

Mitigation measures must be proportional to a project's expected impact. (See 14 C.C.R. § 15126.4 (a)(4) [requiring mitigation measures to be consistent with the constitutional principles of "nexus" and "rough proportionality"]; see also May 7, 2014 Comment Letter "LV-32" [discussing requirements of "nexus" and "rough proportionality" between governmental demands and the impacts of the proposed project]; November 6, 2008 Comment Letter "LV-5" at 5 [same].) Mitigation measure "TR/mm-5" is disproportionate to any impact the Mitigated Project may have on ramp operations because the ramp junctions "operate at LOS D both with and without the project." (FEIR, at V.N.-25.) The County cannot require the applicant to mitigate an existing deficient condition and the Mitigated Project would not degrade the existing level of service for the Highway 101 ramps. Therefore, mitigation measure TR/mm-5 is legally infeasible because it imposes a disproportionate burden on the project.

In addition, as explained in the attached letter (LV-33-3), it is arbitrary for the County to impose mitigation measures associated with merging and diverging at ramp junctions because the County has not consistently applied freeway ramp analyses, impact determinations, or mitigation requirements for other projects that add traffic to Highway 101 ramps. The ramp mitigation measure must be eliminated from the FEIR.

VII. The Requested Changes To The Final EIR Will Not Trigger Recirculation

With these changes, the decision-makers are able to certify the EIR and approve the Mitigated Project. Further review and recirculation is not required because none of the conditions calling for recirculation are present. An EIR must be recirculated when significant new information is added to the EIR after notice of public review has been given, but before final certification. (CEQA Guidelines § 15088.5, Pub. Res. Code § 21092.1.) Recirculation is required under the following circumstances: (1) when new information shows a new, substantial environmental impact resulting either from the project or a mitigation measure; (2) when new information shows a substantial increase in the severity of an environmental impact, except that recirculation is not required if a mitigation measure reduces the impact to insignificance and the mitigation measure is adopted; (3) when the new information shows a feasible alternative or mitigation measure, considerably different from those considered in the EIR that would clearly lessen the environmental impacts, but which the project proponents decline to adopt, or; (4) when the draft EIR was so fundamentally and basically inadequate and conclusory in nature that public comment on the Draft EIR was essentially meaningless. (CEQA Guidelines § 15088.5, Public Resources Code § 21092.1.)

None of these circumstances requiring recirculation are applicable to this project. Therefore, recirculation of the EIR is not necessary. The changes to the EIR proposed in the applicant's comment letters do not demonstrate any new substantial impacts. Rather, they confirm that many of the identified Class I impacts of the Mitigated Project are less than significant with the imposition of mitigation, which the applicant has agreed to accept, and where necessary, obtained the consent and approval of other responsible agencies such as CAL FIRE. Based on this analysis, the facts present, and standard for recirculation, the decision-makers may properly conclude that recirculation of the EIR is not required before certifying the EIR with the requested changes.

Thank you for your consideration of these comments.

Sincerely,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Professional Corporation

Elizabeth Leeper

ELIZABETH LEEPER
MONA G. EBRAHIMI

Enclosures:

LV-33-1: Summary Chart Regarding Parcel Bonus for Agricultural Cluster Projects
LV-33-2: Sirius Environmental Letter Regarding Air Quality Impacts and Mitigation
LV-33-3: ATE Letter Regarding Traffic Impacts and Mitigation

cc:

James Bergman, Planning Director (via e-mail)
Jim Irving, Planning Commissioner (via e-mail)
Ken Topping, Planning Commissioner (via e-mail)
Eric Meyer, Planning Commissioner (via e-mail)
Jim Harrison, Planning Commissioner (via e-mail)
Don Campbell, Planning Commissioner (via e-mail)

LV-33-1

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Parcel Bonus Is Applicable in Both Agricultural and Rural Zoned Lands for Ag. Cluster Projects

AUTHORITY	FACTS	CONCLUSION
2003 Land Use Ordinance: Section 22.22.150(B): Lands eligible for agricultural lands clustering are lands in "Agriculture or Rural Lands categories" that are "in agricultural use at the time of application." Section 22.22.150(I): the "number of parcels allowed in an agricultural cluster division shall be equivalent to the number of dwelling normally allowed in the Agriculture land use category" [i.e. double parcel bonus because two dwellings per parcel normally allowed in Agriculture land use category]	The applicant has applied for an "Agricultural Lands Clustering" project on site with designated Agriculture and Rural Lands in agricultural use. Base number of parcels calculated for each land use category (Agriculture and Rural Lands) and then applied "parcel bonus" for agricultural lands cluster projects. Lands in the Rural Lands category are to be treated the same as those lands in the Agricultural Land category when included in an agricultural cluster project, (i.e. 100 percent parcel bonus).	The Agricultural Lands Clustering Ordinance provides a parcel bonus for the ***project***. The parcel bonus applies to lands in the Rural Lands category and lands in the Agriculture Lands category. This interpretation is consistent with the County's own policies to "*encourage* the use of clustering by allowing the number of clustered parcels to equal the number of dwelling units normally permitted on a standard agricultural land division." (Section 22.22.150, emphasis added). Any other interpretation would contradict this policy and be irrational since no reasonable land owner would be willing to conserve the majority of its land in perpetuity without a double density bonus in the developed areas.
Biddle Ranch Ag. Cluster Project – Planning Commission Findings: Resolution No. 2003-17. Findings state, "The number of parcels allowed on the *site* is equal to the maximum number of dwelling units that could be allowed on a standard subdivision (i.e. two per parcel)." (Emphasis added.)	Biddle Ranch agricultural cluster project consisted of lands in the Agriculture and Rural Lands categories. If the Planning Commission believed that parcel bonus only applied in agriculturally zoned lands, the Findings would have distinguished between the Agriculture and Rural Lands. Instead, Commission found that parcel bonus applied to entire ag. cluster project *site*.	The Planning Commission made a finding that parcel bonus for ag. cluster projects was applicable on the entire Biddle Ranch site, which included Rural Lands. Biddle Ranch findings confirm that the 2003 Agriculture Cluster ordinance provides a parcel bonus for ag. cluster projects on both Agriculture and Rural Lands designated lands. To be consistent with precedent, the County must allow double density in both ag. and rural zoned lands for this ag. cluster project.

AUTHORITY	FACTS	CONCLUSION
Vested Rights (Statutes and Case Law): Once an application for a vesting tentative map is "complete," the applicant has a vested right to proceed under the ordinances, policies and standards in effect at that time. (Gov. Code sections 66489.1-66498.9). "The most notable feature of a vesting tentative tract map is that on its approval or conditional approval, the right vests in the subdivider to proceed with the development in substantial compliance with the ordinance, policies, and standards in effect with the application was deemed complete." (*Bright Development v. City of Tracy* (19930) 20 Cal. App. 4th 783.)	Project application for a vesting tentative map and conditional use permit for an agricultural cluster project was deemed complete on February 4, 2004. Land Use Ordinance (LUO) dated January 1, 2003 is applicable to the project. (Final EIR, p. X.B.-8)	Because the project application was "complete" in 2004, the applicant is vested in the ordinances, policies and standards in effect at that time. At that time, the 2003 LUO's parcel bonus for agricultural cluster projects was in effect, which provided a parcel bonus for lands in Rural Lands or Agriculture Lands categories. The applicable standards and policies were confirmed by the planning commission's Biddle Ranch findings, which found that the parcel bonus for ag. cluster projects applied to the entire project *site*—which was comprised of both agricultural and rural zoned lands.
Agricultural Cluster Subdivision Program (2012) EIR and Proposed Ordinance Revisions: Proposed Ordinance (Recommended Draft 8-30-12) strikes out the language in the LUO stating density bonus is allowed in "Agriculture or Rural Lands categories." Draft EIR at pp. 4.1-12 through 4.1-13; and pp. 6-10 and 6-11).	EIR acknowledged that both ag. lands and rural lands are eligible for ag. cluster program and thereby qualify for density bonus. Staff attempted to amend the LUO to exclude rural lands from the ag. cluster program and thereby eliminate density bonus allowed in rural zoned lands. Board of Supervisors ultimately rejected these changes.	If the County believed that the LUO, with respect to density bonus allowance, was clearly not applicable to rural zoned lands, staff would not have proposed this change and the ordinance would speak for itself. Also, the EIR expressly acknowledged that density bonus applies to rural lands. The Board's rejection of these changes confirms that density bonus *was* always applicable to rural zoned lands and illustrates its intent to *maintain* the double density bonus as applying to <u>both</u> agricultural and rural zoned lands.

LV-33-2

June 11, 2015

John Janneck
Laetitia Vineyard and Winery
453 Laetitia Vineyard Drive
Arroyo Grande, CA 93420

Re: Laetitia Agricultural Cluster Final EIR; Air Quality Analysis

Dear John:

As we have discussed I noticed a number of errors in the Final EIR Air Quality analysis in the reporting of results from the Air Quality modeling included in Appendix C.

Revising the FEIR to correct these errors would reduce the mitigation requirement for construction (the project would not exceed Tier 2 thresholds), but the level of impact would remain Class II (less than significant with mitigation). The operational analysis would also remain Class II, but only ROG/NOx and CO2e need be mitigated not DPM.

It's not clear how the FEIR calculates DPM. Typically PM10 exhaust is a proxy for DPM.

Construction

1. Table V.C-6 and Table V.C-7 use the wrong rows from CalEEMod to report winter and annual emissions. Both tables report totals of all peak day emissions for all years of construction added together (a meaningless number). Rather the table should pick the year in which peak day emissions occur and compare those emissions against the peak day emissions thresholds. The year in which peak ROG emissions occur is not the year in which peak NOx emissions occur, so the EIR should report the year where the maximum combined totals for project emissions for the peak year for the combination to compare against the combined total threshold.

2. Similarly for the annual emissions the FEIR reports the total for all years of construction and compares that total against an annual threshold (applicable to one year of construction not all years added together).

3. All the tables showing project and Dude Ranch emissions use the CalEEMod Fugitive Dust column to report PM10 emissions; the SLOAPCD thresholds are based on fugitive dust so that's appropriate, but the column headings should clarify it's Fugitive PM10 not total.

4. Suggested revised tables for the Ag Cluster are shown below.

Table VC.6-6 Agricultural Cluster Construction Emissions (Unmitigated)

	ROG + NOx	Fugitive PM10	DPM	CO2e
Winter Emissions (lbs/day)	99.33	19.57	3.80	CO2e daily and/or annual emissions are not relevant. For construction the total for all years (6,065.74 MT) is amortized over the life of the project.
Daily Threshold	137	na	7	
Mitigation Required	No	na	No	
Quarterly Emissions (tons)	**3.22**	0.64	0.12	
Quarterly Tier 1 Threshold (tons)	**2.5**	2.5	0.13	
Mitigation Required	**Yes**	No	No	
Quarterly Tier 2 Threshold (tons)	6.3	na	0.32	
Additional Mitigation Required	No	na	No	
Annual Emissions (tons/yr)	9.87	2.20	0.45	
Annual Threshold	25	25	na	
Mitigation Required	No	No	na	

Table VC.6-6 Agricultural Cluster Construction Emissions (Mitigated)

	ROG + NOx	Fugitive PM10	DPM	CO2e
Winter Emissions (lbs/day)	91.95	7.74	0.04	CO2e daily and/or annual emissions are not relevant. For construction the total for all years (6,065.74 MT) is amortized over the life of the project.
Daily Threshold	137	na	7	
Mitigation Required	No	na	No	
Quarterly Emissions (tons)	**2.99**	0.25	0.001	
Quarterly Tier 1 Threshold (tons)	**2.5**	2.5	0.13	
Mitigation Required	**Yes**	No	No	
Quarterly Tier 2 Threshold (tons)	6.3	na	0.32	
Additional Mitigation Required	No	na	No	
Annual Emissions (tons/yr)	7.4	0.87	0.004	
Annual Threshold	25	25	na	
Mitigation Required	No	No	na	

5. The exceedance of the quarterly emission threshold is all related to architectural coatings emissions in 2029 and 2030. In all likelihood those emissions would be spread over several more years reducing quarterly emissions, it would also be possible to specify lower emission coatings to reduce project emissions below the threshold. The model default was reduced to 71 g/l (consistent with mitigation measure AQ/mm-19dd); a further reduction to 50 g/l would reduce the impact below significance even assuming the same schedule. Coatings as low as 10 g/l are available.

6. The SLOAPCD handbook recommends the following measure for exceedance of the Tier I threshold: Standard Mitigation Measures and Best Available Control Technology (BACT) for construction equipment. If implementation of the Standard Mitigation and BACT measures cannot bring the project below the threshold, off-site mitigation may be necessary. These standard measures did not reduce the impact, because they are not related to the problem (the architectural coatings). Also these measures are not necessary because the phases of the project related to construction other than architectural coatings would not exceed the thresholds.

7. The Dude Ranch tables do not make the same mistake with respect to using the CalEEMod row showing total all years to compare against a peak day or annual threshold. But it uses total PM10 to

compare against the Fugitive PM10 threshold and again uses something other than PM10 exhaust for DPM resulting in an exceedance of the DPM Quarterly threshold which would not occur if the PM10 exhaust column is used. The reasons for the extremely high ROG emissions for the hotel is because the modeler did not alter the default architectural coatings emissions rate; also the time to paint the entire hotel (20 days) is extraordinarily short resulting in relatively high daily emissions. For the Ag Cluster the default was changed from 250 g/l to 71 g/l. Paints as low as 10 g/l are available. Reduced emissions from architectural coatings would be the best mitigation measure available to lower the high hotel emissions.

Operational Analysis

8. For the operational emissions the tables again report something other than PM10 Exhaust for DPM resulting in exceedance of the operational threshold (there is also an incorrect addition of the numbers that are in Table 10 for DPM). If the PM10 Exhaust column (total of 0.8 lbs per day unmitigated) is used, the project operational emissions would not exceed the threshold before mitigation.

9. Page V.C-35 indicates that annual construction GHG emissions would be up to 663.88 MTCO2e/yr *for the peak year*. The CalEEMod printout provides the emissions for all the years and the total 6,065.74 MTCO2e bringing the amortized amount over 50 years to 121.32 MTCO2e/yr (not 13.28 MTCO2e/yr). Annual GHG operational emissions are 2,246.71 MTCO2e per day from all sources; with the amortized construction, annual emissions would be 2,368.03 (not 2,259.99 MTCO2e), including 1,665.51 MTCO2e/yr from mobile sources and 366 MTCO2e/yr from energy consumption and 90.2 MTCOe/yr from area sources (mostly 87.85 MTCOe/yr from hearths – wood burning fireplaces, although mitigation measure AQ/mm-19s does not allow residential wood burning devices).

10. The project would result in exceedance of the operational ROG/NOx threshold of 25 lbs per day (with emissions of 45.96 lbs per day) and would therefore be required to implement at least 18 Mitigation Measures, and according to the SLOAPCD Handbook *may* need to implement off-site mitigation depending on effectiveness of the mitigation measures. AQ/mm-20 requires off-site mitigation for all emissions over 25 pounds per day ROG/NOx and 1,150 MT/Year CO2e (DPM should not be referenced in this measure), subject to SLOAPCD approval.

The project will be built out over a number of years and it may well be that the project is able to substantially reduce on-site emissions without resorting to off-site emissions reductions.

For example, the CalEEMod print out identifies 13.65 lbs per day ROG/NOx operational emissions from consumer products and no mitigation for these emissions is identified. It is related to the model assumption of each home being 6,000 sf the areas of each home are not known and may be less than this. In addition, as identified in CalEEMod Users Guide Appendix A, Emissions = EF (2.14×10^{-5} lbs/sq.ft./day) x Building Area. ARB has instituted regulations to reduce emissions from Consumer Products that have not yet been incorporated in to CalEEMod (which is based on emissions in 2008 – see CalEEMod Appendix E).

In addition, the operational analysis assumes that an off-highway truck would operate 8 hours per day (resulting in 6.75 lbs per day of ROG/NOx – mostly NOx). To reduce these emission prohibit diesel-powered equipment within the cluster.

Given the extended build out to completion, potential changes in emissions from on-site sources (both stationary and mobile), the may be able to achieve the desired emissions target and may not need to implement off-site emissions.

Mitigation

11. The model assumes 4,042,734 vehicle miles travelled per year (about 39,600 miles per year per home or 108 miles per day per home). No mitigation is quantified used to reduce VMT or emissions from these miles. There are a number of strategies that the applicant and/or homeowners could undertake that would substantially reduce emissions including:

    - Off-site measure: Fast Charger for electric vehicles at the winery
    - Concierge to deliver groceries to homes
    - Homes wired to encourage telecommuting.
    - Provide electric vehicle wiring/charging in each house to reduce emissions;
    - Homeowners use of (increasingly popular) electric vehicles or other alternate energy vehicles.
    - Provide info to residents on local transit, bicycle and pedestrian options for travel.
    - On-site accommodations for nannies, housekeepers.
    - Complimentary cordless lawnmower to each residence.
    - Implement Clean Air Business practices such as using low-emission delivery vehicles.
    - Facilitate car pooling/provide a shuttle – homeowners, housekeepers?

Consistency with the APCD's Clean Air Plan and Smart Growth Principles

12. The April 2012 Air Quality handbook (as updated in July 2014), requires that project-level consistency with the Clean Air Plan (CAP) be conducted as follows:

    Project-Level environmental reviews which may require consistency analysis with the Clean Air Plan and Smart/Strategic Growth Principles adopted by lead agencies include: subdivisions, large residential developments and large commercial/industrial developments. The project proponent should evaluate if the proposed project is consistent with the land use and transportation control measures and strategies outlined in the Clean Air Plan. If the project is consistent with these measures, the project is considered consistent with the Clean Air Plan.

    Consistency with any planning document including CAPs is determined by assessing whether a project is generally consistent with the overall plan. Consistency with an entire plan is not determined policy, by policy or by groups of policies, it is determined by viewing the project in the context of all the policies and strategies and determining whether the project as a whole is on balance consistent with the plan. Impacts AQ Impact 8 and AQ Impact 9 (also referred to in the Alternatives section as Impacts 9 and 10) appear to be the same impact. We agree that while the project includes a

number of measures to reduce emissions, the project is not consistent with several of the strategies and polices relating to growth outside urban areas conservatively leading to a conclusion of significance with respect to consistency with the CAP.

The project is required to pay the South County Air Quality Mitigation fee and with AQ/mm-20 net emissions from the project are required to be less than the thresholds of significance: 25 pounds per day ROG/NOx and 1,150 MT/Year CO2e. With mitigated emissions below these thresholds, the impact would be entirely related to a cumulative considerable contribution to air emissions (unless there is some uncertainty that the project can reduce emissions below these thresholds, in which case it would be a project impact).

The 2014 SLO RTP/SCS was adopted, with minor changes, April 1, 2015. The RTP/SCS provides the growth assumptions for the CAP. The RTP does not prohibit residential development in rural areas, rather it promotes/encourages increased density and development in target development areas. It also encourages preservation of farmlands, agricultural lands and open space/critical environmental areas. The RTP anticipates that 2.8% would be in rural areas (about 500 units in the entire County) and encourages preservation of farmland, agricultural lands and preservation of open space and critical environmental areas. Therefore, the Laetitia project may not be inconsistent with growth assumptions.

13. In the alternatives chapter the former AQ Impact 8 remains, leading to some minor confusion regarding numbering of AQ impacts. The two impacts related to the CAP are either 8 and 9 (in the REIR air quality section), or 9 and 10 in the Alternatives table (page VI-55).

Sincerely,

Wendy Lockwood
Principal

LV-33-3

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Since 1978

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June 23, 2015 06092L13

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REVIEW OF TRANSPORTATION/CIRCULATION SECTION AND RESPONSE TO COMMENTS CONTAINED IN THE LAETITIA AGRICULTURAL CLUSTER PROJECT FEIR, COUNTY OF SAN LUIS OBISPO

Associated Transportation Engineers (ATE) reviewed the Transportation and Circulation section of the Final Environmental Impact Report (FEIR) prepared for the Laetitia Agricultural Cluster Project. The project is proposed in the Nipomo area of County of San Luis Obispo County. ATE provided comments on the Transportation and Circulation section of the DEIR. Our review of the FEIR shows that no major changes were made to the Traffic and Circulation section of the document based on those comments.

We understand that the applicant is agreeable to those mitigation measures related to Sheehy, Dana Foothill and Upper Los Berros and is in discussion with County staff regarding participating in the South County area 2 Road Improvements District to address Los Berros / Thompson Road intersection improvements at Highway 101. Our comments therefore focus on one measure – TR/mm-5, the requirement to lengthen acceleration and deceleration lanes at the on- and off ramps at the US Highway 101/Los Berros Road/North Thompson Road interchange.

We believe that an LOS D threshold (based on the Caltrans' Transportation Concept Report for Route 101) is appropriate, however, the FEIR uses a LOS C threshold (based on Caltrans' Traffic Impact Study Guidelines). We understand that this is an internal inconsistency on Caltrans' part.

As we pointed out in our original comments on the DEIR, operational analyses of freeway merging and diverging at ramp junctions and mitigation requirements for ramp lengthening is atypical for traffic studies prepared for environmental documents in the County. Other recent EIRs completed for developments located in the County do not address ramp merging and diverging. For example, the traffic impact thresholds contained in the Dana Adobe Nipomo Amigos LUO Amendment and CUP (October 2013) includes the LOS C threshold for U.S. 101 facilities, however the FEIR does not include an analysis of freeway ramp merge and diverge operations. Similarly, freeway ramp merge and diverge operations were not analyzed in the Chevron Tank Farm Remediation and Development FEIR (December2013), the Conoco Phillips Santa Maria Refinery Project EIR (August 2011), or the Hanson Santa Margarita Quarry Expansion EIR (March 2015). All of these projects result in traffic additions to U.S. 101 on and off ramps.

In the EIR for the Oster/Las Palitas Quarry Project, the freeway merge and diverge operations were analyzed, however the County concluded that project would not generate significant impacts to existing LOS D operations at the ramps because the LOS did not change with the addition of project traffic (similar to the Laetitia Project).

Based on the above, it is clear that the County has not been consistent in its application of freeway ramp analyses, impact determinations, and mitigation requirements for other projects that add traffic to the U.S. 101 freeway ramps.

The data presented in Table V.N. – 11 of the FEIR show that the project's traffic additions would:

1) Not change the existing density or LOS at the Thompson/US 101 NB Off-ramp (PM) and Los Berros /US 101 SB On-ramp (PM) – a less than significant impact;

2) Change the density by only 1 passenger car per mile at the Los Berros/US 101 SB Off-Ramp (PM) with no change in LOS – a less than significant impact.

Therefore based on the analysis in the EIR we would conclude that the project-specific impact to the ramps is less than significant.

It appears that the threshold of significance used to justify this mitigation measure is the addition of "any traffic" to the U.S. 101 ramps and mainline. Clearly such a threshold is not consistent with County practice (or any reasonable interpretation of Caltrans' requirements) in analyzing other development projects, since then even projects that normally receive Categorical Exemptions would be required to prepare EIRs.

The mitigation to lengthen the deceleration lane on the northbound and southbound off-ramps by 50 feet; and lengthen the northbound on-ramp acceleration lane by 25 feet is a speculative measure. We doubt that Caltrans would approve such modifications because they would result in little or no benefit to traffic operations and the costs and upset to existing traffic operations would outweigh any operational benefit.

Associated Transportation Engineers

Scott A. Schell, AICP, PTP
Principal Transportation Planner

SAS/DLD

Glen & Linda Larsen
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July 1, 2015

Brian Pedrotti
County Planning Dept.
976 Osos St., Rm 300
San Luis Obispo, CA 93408

Brian,

Thank you for taking a few minutes out of your schedule to discuss the Laetitia development with me. We are recent arrivals in Nipomo, having just celebrated our one year anniversary in our home we built on Rim Rock Road. We purchased here for the quiet agricultural setting and, like most residents during this severe drought, we took as much care as we could that our well was sound and productive. We and our neighbors enjoy the walks on Dana Foothill, Sheehy, and Rim Rock. There is no outlet here so this is all neighborhood traffic and there is neighborly respect given to pedestrians on these narrow roads

The proposed Laetitia development is of great concern to us. It may be called an agricultural development cluster but it is really gentrification. The purpose is not to promote agriculture or to help maintain a farmer's livelihood. It is simply a profitable housing development that has little to do with agriculture and little regard to the local water supply, culture, and environment.

This is not just bad timing with the current severe drought --- it is not the area's first drought and won't be the last. But as neighboring wells go dry or are marginalized it is difficult to understand how the DEIR can consider water sustainability as a Class II Impact. The DEIR may specify mitigation for limited water supplies but is there any expectation that water discipline can be maintained after 102 homes are built? Who will enforce this? If our well were to be marginalized by this gentrification, what is our recourse?

We appreciate that growth is necessary and planning is difficult. Our concern is for our continued enjoyment of this area with our farm and ranch neighbors. Please keep the well-being and property values of the existing community in mind as decisions are made.

Glen & Linda Larsen

James T. Toomey
161 Jovita Place
Nipomo, CA 93444

June 24, 2015

Mr. Brian Pedrotti, Project Manager
Department of Planning & Building
County Government Center, Room 200
San Luis Obispo, CA 93408

Re: Laetitia Proposed Agricultural Cluster

Dear Mr. Pedrotti:

The amount of information contained within and in response to the FEIR is voluminous. I empathize with the Commissioners in attempting to assimilate all of it. Following is my attempt to distill key issues. Please forward to the Planning Commission Secretary for distribution to the Commission.

DUST CONTROL

Water for dust control is not adequately quantified and identified. According to page III-29 of the FEIR the applicant proposes to grade 44 acres to construct internal roads, water infrastructure, drainage improvements, utility installation and construction of the ranch headquarters. It is estimated an additional one acre of disturbance would be required for each lot bringing the total to 146 acres. The FEIR states an estimate of 700 to 3000 gallons per day for dust control but does not specify how many days will be required. Given the area of disturbance, the source and amount of water necessary to prevent airborne dust from leaving the site needs to be clarified. The use of reclaimed water should be mandated.

WASTEWATER

Recharge from wastewater is overestimated while the water duty factor is underestimated. For example GeoSyntec's Review of Laetitia Residential Water Demand in Appendix A of the FEIR estimates indoor usage of 0.14 AF/year/unit at the low end and 0.29 AF/yr/unit at the high end. The below calculations convert these water duty factors (wdf) to gallons. I acre foot = 325,581 gallons

325,581 x 0.14 low wdf = 45581.34 gallons/365 days = 124.88 gal/day

325,581 x 0.29 high wdf =94496.79 gallons/365 days = 258.9 gal/day

Section V.O. – 4 of the FEIR estimates average daily wastewater flow of 300 gallons per unit. How can the daily flow number exceed both the low and high indoor water duty factors? In reality, given the paucity of available water, I suspect most homeowners will employ gray water systems reducing the wastewater flow rate. The amount available for irrigation would be reduced further by evapotranspiration losses from the treated wastewater storage ponds. The alleged 37 acre feet of groundwater recharge needs to be adjusted accordingly, e.g., 14.3 acre feet at the low end and 29.5 acre feet at the high end less gray water and evapotranspiration. If this project gains approval I suspect

finding a government entity willing to supervise the design work and assume liability for the wastewater system in the event of failure per Central Coast RWQCB Resolution 69-1 will be very challenging.

WATER

RESIDENTIAL DEMAND

Geosyntec's summary estimates combined indoor and outdoor water usage at 0.21 acre feet per unit (afu) at the low end and 0.36 afu at the high. Using the same methodology as above equates to 187.48 and 321.39 gallons per day respectively. Assuming four occupants per home this equates to 46.87 gpcd (gallons per capita per day) and 80.35 gpcd.

For comparison purposes the April 2015 DWR Water Conservation Report for the City of Arroyo Grande shows 106.2 gpcd and the Nipomo CSD at 131.3 gpcd. Both of these areas are largely urbanized and comprised of smaller lots. Do we really expect occupants of multimillion dollar homes to abide by these stringent water duty factors?

AGRICULTURAL DEMAND

Geosyntec's assumptions in the appendices regarding calculations of agricultural demand are flawed. For some unknown and unspecified reason (unless attempting to "back into" the 0.34 AF/Y number) Geosyntec chose to use the low figure of 0.7 AF/Y wdf in the County Master Water Plan for vineyards in WPA 7 (South Coast) rather than the middle figure of 1.0 AF/Y. Interestingly, yet inconsistently, the middle value is used for Citrus. Geosyntec goes on to cite a single isolated historical Laetitia irrigation record for 2011 with a value of 0.34 AF/Y, apparently as justification for using the low value rather than the middle value. Please note that 2011 was a very wet year with 29 inches of rain or 175% of normal. The long-term (since 1920) historical average for the Mehlschau guage is 16.6 inches. Of course irrigation for this very wet year would be less than in an average or drier year. To base projected future demand using this single year wet year is clearly in error.

Highly suspect is the use of Master Water Plan vineyard water numbers from Water Planning Area WPA 2 (Cambria) and WPA 3(Cayucos) rather than those for Laetitia's geographic location in WPA 7 (South Coast) as additional justification for using the 0.34 AF/Y number. The evapotranspiration rates for these WPA's are 38.5, 38.2 and 52.1 respectively. The WPA's were developed because there are significant differences in such factors as evapotranspiration rates and other growing conditions. The application of data to WPA 7 from WPA's 2 & 3 is not appropriate. The correct agricultural demand should be the middle value for WPA 7 of 1.0 AF/Y less frost protection of 0.25 or 0.75 AF/Y. This would change total water use from the alleged 280.6 AF/Y to 545.9 AF/Y (195% increase in existing demand). If one assumed a very conservative .75 less .25 or .50 the total water usage would be 384.1 AF/Y (137% increase in existing demand). Even small changes in the wdf have a significant change in the total water demand.

NEWLY PLANTED VINES

The wdf for the newly planted 140 acres of vineyard is vastly understated. New vines require water in greater amounts and more frequently. Their root systems are not well developed and their canopy doesn't provide as much ground cover (shade) as mature vines. Using the wdf for mature vines is totally inappropriate. Novavine recommends ½ to 1 gallon of water per vine every 3 to 5 days. http://www.novavine.com/services_resources/planting_instructions/grapevines.asp

CUMULATIVE DEMAND

The FEIR fails to provide adequate and timely baseline information related to water supply, water demand and cumulative impacts. No effort was made to ascertain what effect the project may have on

neighboring wells nor was any allowance made for the additional forty acres of Citrus plantings. Without this information, the EIR fails to provide relevant information to evaluate the sufficiency of long-term water supply. The applicant is attempting to "piece-meal" CEQA by including the Dude Ranch as a future development project so as to avoid environmental review of the totality of the project.

WELL SHELL GAME

The applicant alleges to have solved the Class I water impact of reduced flow to Los Berros Creek by substituting wells 14 and 15 for wells 12 and 13. This is but a shell game by the applicant to appease the Class 1 impact on paper only. What purpose does it serve to preclude use of wells 12 and 13 for the proposed project then turn around and use them for irrigation? I realize the county, absent utilization of their police powers, cannot presently restrict agricultural pumping. However, approval of this proposed project is discretionary and this well shell game should be part of your consideration.

COMPLIANCE WITH DWR REGULATIONS RE: PUBLIC WATER SYSTEMS

It appears as if the applicant has not yet complied with Title 17 and 22 of the California Code of Regulations (CCR) related to drinking water. Specifically, Article 2, Permit Requirements, Section 64552 and Section 64554 are particularly germane. The tests already conducted by the applicant do not meet CCR requirements if prior approval in accordance with Section 64554 (e) was not obtained. Given we are in our fourth year of drought it would be prudent to have these tests conducted (not peer reviewed) under present drought conditions by another hydrogeologist.

CONFLICTING WATER SUPPLY REPORTS

This project has had three reports prepared by two different hydrogeologists in addition to the initial work done by the hydrogeologist (CHC) hired and paid by the applicant. Two peer reviews were by Paul Sorenson of Fugro West. The review of the pump tests was done by Gordon Thrupp of Geosyntec. Each of these reports differed significantly from the conclusions of CHC. The Fugro reports, which are the most detailed and critical of CHC's work, are not in the FEIR and are merely referenced as appendices. Copies of these two reports are attached to my letter to you of August 16, 2013. I strongly encourage you to review them as it is the duty of the decision makers to consider all the data and sort out what represents the truth. Please note the pump tests were not actually performed by GeoSyntec; who had to rely on data supplied after the fact by the CHC. What was supposed to be tests agreed to and monitored by a neutral third party became one dependent on the data supplied by CHC. Note that rainfall during the period of testing was 138% of normal. CHC also used groundwater in storage as a component of safe yield in violation of CEQA guidelines regarding depletion of groundwater.

REPLACING 103 ACRES OF PRODUCING GRAPEVINES WITH NEW NON-PRODUCING PLANTINGS

Removal of 103 acres of productive vineyard to accommodate a large residential development is inconsistent with Ag Policy 11. The proposal to plant approximately 140 acres of new non-producing vines doesn't adequately mitigate this loss. According to Title 22, Chapter 22.22 of the SLO County Subdivision Design Standards, Section 22.22.150 regarding Agricultural lands clustering, 5. Required findings include: (1) Locate proposed development to avoid and buffer all prime agricultural soils on the site, *other agricultural production areas on the site*, as well as agricultural operations on adjoining properties; (5) *Cluster proposed residential structures, to the maximum extent feasible, so as not to interfere with agricultural production* and to be consistent with the goal of maintaining the rural character of the area; and, (6) d. The water resources and all necessary services are adequate to serve the proposed development, including residential uses, as well as existing and proposed agricultural operations on the subject site *and in the site vicinity.* Clearly the Laetitia proposal doesn't meet these or other required findings.

BOTH NIPOMO MESA (NMMA) AND NORTHERN CITIES (NCMA) MANAGEMENT AREAS HAVE BEEN ADVERSELY EFFECTED BY EXTREME DROUGHT CONDITIONS

The NCSD has imposed stage III severe water conditions on their customers and suspended acceptance of applications for new water connections. The Nipomo Mesa Annual Report http://ncsd.ca.gov/wp-content/uploads/2015/05/2014-Annual-Report-w-App.pdf invokes severe water shortage conditions. The Northern Cities 2015 Annual Report http://ncsd.ca.gov/wp-content/uploads/2015/05/NCMA-2014-Report_Final.pdf mentions water elevations in the central portion of their basin as much as 13 feet below sea level. The current conditions, with groundwater extractions at just 42% of safe yield and declining water elevations, illustrate the impact of severe drought that has significantly reduced recharge. The Oceano Hydrological Subarea and Los Berros Creek are important sources of recharge to both the NMMA and NCMA. Additional groundwater production of 20 to 26% as contemplated by the Laetitia proposal would only exacerbate an already critical situation.

INADEQUATE LONG TERM MITIGATION PROTECTION

WAT/mm-1 provides for application of adequate project mitigation through Phase 3. However, there is no long-term enforcement mechanism after the development is built out. The Water Master Plan is to be administered by the MWC and enforced by the HOA. In other developments concerns have arisen that enforcement by the HOA has been compromised by reluctance to discipline non-conforming friends and neighbors. Do adjoining landowners have access to the annual report prepared by the MWC or is access limited to residents?

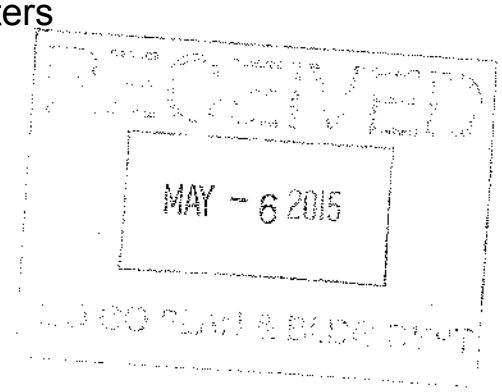
CEQA MUST REFLECT ON THE GROUND REALTY

The on the ground realty that currently exists includes a many local dry wells, a previously perennial creek that is now dry most of the time, and a negatively impacted ecosystem. Laetitia's proposed withdrawal of 20% to 25% more water is absurd.

There is substantial evidence before you that what is being proposed will cause significant and adverse environmental impacts. Thank you for considering my thoughts.

Sincerely,

James T. Toomey



James T. Toomey

161 Jovita Place

Nipomo, CA 93444

May 3, 2015

SLO County Planning Commission

976 Osos Street, #200

San Luis Obispo CA 93401

Re: Proposed Laetitia Ag Cluster

Dear Commissioners:

Enclosed is a copy of the executive summary of the Northern Cities Management Area 2014 Annual Monitoring Report dated April 29, 2015. This report is "hot off the press" and contains the most current data on the status of the area. Please use it in your evaluation of the Laetitia project, an important source of recharge to the NCMA.

The summary is rather alarming in that total pumping was but 42% of safe yield yet water elevations throughout the area declined by several feet. This decline is partially attributable to reduced subsurface inflow recharge from the Nipomo Mesa Management Area. Overlying purveyors are asked to consider limiting or discontinuing issuance of will serve letters. Equally disconcerting is the fact water elevations in the central portion exhibit elevations as much as 13 feet below sea level.

Following is a link to the full report should you need additional information.
http://www.scefiling.org/filingdocs/204/83899/205566e_NCMAx2014xReport_Final.pdf

Thank you for your consideration.

Sincerely

James T. Toomey

Copy, Brian Pedrotti, Planning & Building Department

NORTHERN CITIES MANAGEMENT AREA
2014 ANNUAL MONITORING REPORT

1.0 EXECUTIVE SUMMARY

This 2014 Annual Monitoring Report for the Northern Cities Management Area (NCMA) is prepared pursuant to the requirements of the Stipulation and Judgment for the Santa Maria Groundwater Basin Adjudication. The Annual Report provides an assessment of hydrologic conditions for the NCMA based on data collected during the calendar year of record. As specified in the Judgment, the Northern Cities agencies, consisting of the City of Arroyo Grande, City of Grover Beach, City of Pismo Beach, and Oceano Community Services District, are to conduct groundwater monitoring in the NCMA, and collect and analyze data pertinent to water supply and demand, including:

- Land and water uses in the basin;
- Sources of supply to meet those uses;
- Groundwater conditions (including water levels and water quality);
- Amount and disposition of developed water supplies; and
- Amount and disposition of other sources of water supply in the NCMA.

Results of the data compilation and analysis for calendar year 2014 are documented and discussed in this Annual Report.

1.1 FINDINGS

- Total water use in the NCMA in 2014, including urban use by the Northern Cities agencies as well as applied irrigation and private pumping by rural water users, was 9,849.17 acre feet (AF). Of this amount, Lopez Lake deliveries equaled 5,456.69 AF, State Water Project deliveries totaled 303 AF, and groundwater pumping accounted for approximately 4,020.18 AF. The breakdown is shown on the following table.

Urban Area	Lopez Lake	State Water Project	Groundwater	Other Supplies	Total
Arroyo Grande	2,631.48	0.0	51.34	69.3	2,752.12
Grover Beach	835.06	0.0	512.13	0.0	1,347.19
Pismo Beach	1,442.43	303.0	203.81	0.0	1,949.24
Oceano CSD	547.72	0.0	259.1	0.0	806.82
Urban Water Use Total	**5,456.69**	**303.0**	**1,026.38**	**69.3**	**6,855.37**
Applied Irrigation	0.0	0.0	2,955.4	0.0	2,955.4
Rural Water Users	0.0	0.0	38.4	0.0	38.4
Total	**5,456.69**	**303.0**	**4,020.18**	**69.3**	**9,849.17**

- On April 17, 2015, the County of San Luis Obispo sent a letter to the State Water Subcontractors entitled "State Water / Lopez Water Management Opportunities." The letter identified a possible re-statement of 2014 deliveries, which would result in increasing the amount of State Water Project deliveries shown in the table above for the City of Pismo Beach and the Oceano Community Services District, and decreasing the amount of Lopez Deliveries by an equal amount. If re-stated, then those changes would modify many of the references of water deliveries and sources of the water deliveries throughout this report. However, no changes are made at this time because the re-statement has not been finalized, total water deliveries are not affected, and groundwater pumping is not affected.
- Total groundwater pumping in the NCMA (urban, agriculture, and rural domestic) was 4,020.18 AF in 2014, which is 42% of the 9,500 AFY safe yield. However, even with the reduced pumping, water elevations throughout the area declined by several feet, with some areas finishing the year with water elevations below sea level. Typically, when pumping is less than the safe yield, the remaining volume of groundwater results in increased groundwater in storage, which is then manifested by rising water levels. The current condition, with groundwater extractions at 42% of the safe yield and declining water elevations, illustrates the impacts of the ongoing severe drought that has significantly reduced recharge. This current condition is also in part a result of the impacts of reduced subsurface inflow recharge from the east (Nipomo Mesa) that has occurred because of overdraft pumping in the Nipomo Mesa Management Area (NMMA), the development of a pumping depression beneath the Mesa, and the elimination of the groundwater divide between the NCMA and NMMA. This condition of declining water levels in the NCMA, even though total pumping is currently 42% of the basin safe yield, will be exacerbated if the NCMA agencies are required to increase their dependency on groundwater withdrawals due to reductions or interruptions in local surface water supplies or State Water Project deliveries.
- The overdraft condition in the NMMA, the deepening pumping depression within the central part of the NMMA, and expansion of the groundwater depression to the west and north of the Mesa, towards the NCMA, has eliminated the historical groundwater divide between the NCMA and NMMA. With the loss of this divide there has been a reversal of groundwater gradients and the development of a landward gradient in the central portion of the NCMA. The result of this landward gradient is the loss of historic aquifer recharge by subsurface inflow from the NMMA into the NCMA (thereby reducing the yield of the aquifer), which creates conditions favorable for seawater intrusion. This condition was recognized in previous years, and again confirmed by the evaluation of water levels by the NMMA (*NMMA 6th Annual Report CY 2013*). To mitigate the risk of seawater intrusion and restore the subsurface inflow into the aquifer, immediate conservation measures must be made to reduce demand in the NMMA. Additionally, the water purveyors overlying the NMMA should limit or discontinue issuance of will serve letters that would increase water demand in the area. It is important to note that the County of San Luis Obispo has implemented a Resource Management System (RMS), which is a component of its General Plan, that specifically addresses water resource constraints while considering land use decisions. For more effective land use decisions, the

County's RMS policies and directives need to be better aligned with the stipulations. If not, groundwater in storage in the aquifer will continue to decline, the risk of sea water will continue to increase, and potentially permanent damage to the basin will occur.

- Regular monitoring of water elevations in clustered sentry wells located along the coast are an essential tool for tracking critical groundwater elevation changes at the coast. Averaging the groundwater elevations from the three deep sentry wells provides a single, representative index, called the deep well index, for tracking the status and apparent health of the basin. Previous studies have suggested a deep well index value of 7.5 feet NAVD88 as a minimum threshold, below which the basin is in threat of encroaching sea water intrusion. As described in previous Annual Reports, the measured deep well index remained below 7.5 feet between October 2007 and August 2009, during which high concentrations of chloride and sodium occurred in two sentry wells in late 2009. This relationship implies a lag in time between lowered water levels in the deep sentry wells and significant increases in sodium and chloride. This relationship is potentially significant as it applies to current conditions, because the measured index level in April 2013 was as much as 6 feet below the 7.5-foot index and remained at or below the index until mid-December 2013. After briefly rising above the index for a few months, the measured deep well index level once again dropped below the 7.5-foot level in April 2014 and remained below the index throughout the remainder of 2014. A continuation of conditions with water elevations and index values below the 7.5-foot index creates an environment for increased risk of sea water intrusion.
- Rainfall in the NCMA for calendar year 2014 was 9.77 inches, equal to 61 percent of the long-term average annual rainfall for the area. Below average rainfall occurred for seven of the twelve months of the year. Most rainfall typically falls from November through April, however the year was marked by substantially lower than average rainfall (39 percent of normal) in the "wet" months of January, February, March, April, May, September, and November. Evaporation rates throughout the area exceeded rainfall in every month of the year except December, suggesting that recharge to groundwater from direct precipitation was very limited in 2014.
- Spring 2014 groundwater elevations were generally highest in the eastern portion of the NCMA which results in a generalized westward groundwater gradient, particularly in the northern part of the area. Groundwater elevations along the coast were generally below 5 feet above sea level, which represents a lowering of water elevations from normal historic conditions. Of note is the development of a westward-facing trough or pumping depression that developed in the Spring throughout the central portion of the area. A comparison with Spring 2013 contours shows that Spring 2014 water elevations were about 5 feet lower throughout most of the NCMA; in the central area pumping trough, water elevations were about 10 to 15 feet lower than in Spring 2013.
- Fall groundwater elevations in October 2014 were also generally highest in the eastern portion of the NCMA, and approximately 0 to 3 feet above sea level along the shoreline. Groundwater elevations were generally above mean sea level (msl) in the northern, eastern, and southern portions of the NCMA during the Fall, however the entire central part of the area exhibited water elevations below sea level with some measurements in

agricultural wells in the east-central part of the area as deep as -13.0 feet msl. These lower water level elevations maintain, and deepen, the previously recognized water table depression south of the municipal well fields and in the vicinity of, and south of, lower Arroyo Grande Creek. The previously developed pumping depression in the vicinity of the Oceano CSD production wells was maintained, and deepened, into the Fall of 2014. Water elevations in this area are generally 5 to 10 feet lower than levels measured in Fall 2013.

- February through April is the time of year that historically has the highest deep well index value (at least since January 2010). The index value at the end of 2014 is the lowest end-of-year value since 2009. If the wells experience a 1-foot rise through February to April followed by a 5-foot decline in water level elevations until October 2015 (as is typical), then the index value may approach sea level in October 2015. Considering the effects of any increased pumpage related to anticipated cutbacks in surface water deliveries, the index level may approach, or be lower than, the level seen in 2008-2009 just prior to observing the elevated chloride concentrations in the Pier Avenue well.
- Minor variations and changes in water quality were observed in the sentry wells throughout the year; however there are no indications of sea water intrusion in the sentry wells or in the primary groundwater production zone.
- The various water quality indicators observed in 2014 suggest that the local interface/mixing zone between seawater and fresh groundwater remains seaward of the sentry wells (shoreline). The location of the seawater interface is not known. The only indication of the location of the interface would be when the water quality in one or more monitored wells shows an increase in total dissolved solids, chlorides, sodium, or other constituent along with a geochemical signature resembling seawater. These changes may be brought on by reduced recharge (e.g. continued drought conditions or reduction of subsurface inflow from the Mesa) or if pumping exceeds available groundwater supply, or both.
- Numerous management objectives are described in the Annual Report. Due to potential constraints on supply, all NCMA agencies, both individually and jointly, are engaged in water resource management projects, programs, and planning efforts that address water supply and demand issues, particularly efforts to assure a long-term sustainable supply. Constraints on supply include drought cycles, limitations on surface water allocations and risk of seawater intrusion of the aquifer system.
- A key water supply planning and management activity completed in mid-2014 by the NCMA is the development of a joint Strategic Plan for the purpose of providing the NCMA Technical Group with a framework for identifying common water resource planning goals and objectives, and to establish a 10-year work plan for implementation of those efforts. Several key objectives have been identified, including water supply reliability, increased outreach, and basin management. Implementation of some of these identified strategies was started in 2014 and will continue throughout 2015.

THE RESERVE AT LAETITIA
1124 TOWER ROAD
BEVERLY HILLS, CA 90210
sun9155@aol.com
(310) 351-1555

July 15, 2015

Brian Pedrotti, Project Manager
County of San Luis Obispo
Dept. of Planning & Building
976 Osos St., Room 300
San Luis Obispo, CA 93408-2040

Via Email and Federal Express

Re: Caltrans Opposition to the Laetitia Ag Cluster's Secondary Emergency Exit

Dear Brian:

The Caltrans position is without merit. The enclosed summary provides appropriate disposition.

Sincerely,

John Janneck
Managing Partner
The Reserve At Laetitia

Enclosure
Cc: Jim Bergman, Planning Director
Bill Robeson, Deputy Director, Permitting
Supervisor Lynn Compton

LV-35

Caltrans Opposition to the Laetitia Ag Cluster's Secondary Emergency Exit

Access to the Winery off Highway 101 to the current Laetitia Winery and property is under a 1955 deed to the State of California when Highway 101 was originally constructed. This access point on to 101 is unrestricted and has been in constant use since 1955. When the winery and adjacent buildings were built in 1984, Laetitia obtained an encroachment permit from the State to improve the deceleration lane on the southbound portion of 101 and improve the driveway into the property for the winery operations. Those improvements were built and accepted by Caltrans. The permit has no use restrictions. Caltrans was aware at the time that the that as many as 10 vehicles per hour would use the entrance for winery tasting room visits alone, not counting the other substantial traffic using it for other related purposes. Currently there are up to 3,500 visitors per month visiting the tasting room.

The Laetitia development project has located the primary entrance for the future residences to access their properties via Upper Los Berros Road and not the winery access road off of Highway 101. Cal Fire requires two entrances to the residential project in case of emergencies, one primary and one secondary. The primary entrance will be off of Upper Los Berros Road. The secondary entrance will be the Winery access road off of Highway 101. The residents will not be able to use the Winery access to get to Highway 101 because there will be gates with 24-hour guards blocking access. It will only be available solely in the case of an emergency and the primary access is unavailable, which is highly unlikely.

Caltrans has objected to the use of the Winery access by the future residents on two grounds. One objection is on alleged safety concerns, although Caltrans offers no evidence to support the objection. The other objection is that the 1984 encroachment permit would be violated in the event of an emergency because such emergency use would exceed "historical use." However, Caltrans ignores the fact that there are no use limitations in the permit, that Laetitia has recorded unrestricted access rights, and that the permit was to allow construction of improvements that have been completed and accepted by Caltrans.

Furthermore, Caltrans ignores the importance of utilizing the Driveway as a secondary access for emergency vehicles for existing residences located in upper Los Berros canyon behind Laetitia. Without this access, existing property owners have no recourse to evacuate their homes in the case of an emergency when their only escape is through bridges, which may or may not be viable options for them.

Given these facts, Caltrans objections are without merit and wholly unsubstantiated. Consequently, there are no impacts associated with emergency access to the project.

Kevin R Dilworth
835 NE 168th Place
Portland, OR 97230

July 8, 2015

Mr. Brian Pedrotti, Project Manager
County of San Luis Obispo
Planning and Building Department
976 Osos Street Room 300
San Luis Obispo, CA 93408-2040
bpedrotti@co.slo.ca.us

Re: Laetitia Proposed Agricultural Cluster (aka Janneck, Limited)

Dear Mr. Pedrotti

My parents own property that includes Los Berros Creek. We have been following the "Laetitia" project for the last several years. **We are highly alarmed over this project!** Over the 41 years we've owned the property at 1704 Los Berros Road, we only "went dry" at the very beginning when our well pump wasn't deep enough. Only by going down to 80 feet where the underground "river" ran were we assured a continuous supply of water and that river is only at the very front of the property. I can only imagine what will happen if Laetitia, or any other large project, is allowed to pump such large quantities of water! **We will be DRY!**

In addition, there are historical records that document the creek did flow all year long and provided a habitat for trout and many other species. Our "across the creek" neighbors, who had lived there for decades, told how they had fished for salmon along our property, five miles from the ocean. Now, only when an abundance of rain occurs does the creek flow and then only for a few weeks. This hasn't occurred in over 5 years! **The abundance of water is not there!!** The demand for water in the last 41 years has undeniably increased. The fact that the valley's water level is scarcely enough to sustain the existing residences and farmland should be enough to deny this project!

After extensive work studying the FEIR, James T Toomey, a neighbor 3 miles to the east, has compiled a number of reasons this project should not be allowed. I will list the concerns by name rather than go into detail:

DUST CONTROL
WASTEWATER
WATER
SWITCHING WELLS FROM 12 & 13 TO 14 & 15
COMPLIANCE WITH DWR REGULATIONS RE: PUBLIC WATER SYSTEMS
CONFLICTING WATER SUPPLY REPORTS
REPLACING 103 ACRES OF PRODUCING GRAPEVINES WITH NEW NON-PRODUCING PLANTINGS
BOTH NIPOMO MESA (NMMA) AND NORTHERN CITIES (NCMA) MANAGEMENT AREAS HAVE BEEN ADVERSELY EFFECTED BY EXTREME DROUGHT CONDITIONS

We are in full agreement with his comments and submit them as our own. **For these reasons and more, this project proposed by Laetitia/Janneck Limited must be rejected!**

Sincerely, Kevin R Dilworth

DEPARTMENT OF CONSERVATION
DIVISION OF LAND RESOURCE PROTECTION
801 K STREET • MS 18-01 • SACRAMENTO, CALIFORNIA 95814
PHONE 916 / 324-0850 • FAX 916 / 327-3430 • TDD 916 / 324-2555 • WEB SITE conservation.ca.gov

June 16, 2015

VIA EMAIL: BPEDROTTI@CO.SLO.CA.US
Mr. Brian Pedrotti, Project Manager
County of San Luis Obispo
Department of Planning and Building
County Government Center, Room 200
San Luis Obispo, CA 93408

Dear Mr. Pedrotti:

LAETITIA AGRICULTURAL CLUSTER SUBDIVISION TENTATIVE TRACT MAP AND CONDITIONAL USE PERMIT, FINAL ENVIRONMENTAL IMPACT REPORT - SCH# 2005041094

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Final Environmental Impact Report (FEIR) submitted by the County of San Luis Obispo. The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. We offer the following comments and recommendations with respect to the proposed project's potential impacts on agricultural land and resources.

Project Description

The proposed project consists of the agricultural cluster subdivision of 21 parcels (totaling approximately 1,910 acres) into 106 lots, including 102 residential lots of one acre each; four open space lots totaling approximately 1,787 acres; and approximately 25 acres of internal residential roads. The project also proposes the construction of ranch headquarters (homeowner's association facility and recreational facilities), wastewater treatment ponds, and related infrastructure.

The project would be developed in three phases. Phase One includes 43 residential lots, along with construction of Main Roads 1 and 2, internal access roads, the construction of a wastewater treatment plant and related infrastructure, water storage tank, private water service lines, ranch headquarters facilities, entry gates and features, public utility extensions, and landscaping. Phase Two includes 40 residential lots,

internal access roads, gates, and landscaping. Phase Three includes 19 residential lots, internal access roads, and landscaping.

The project site is located approximately two miles south of the City of Arroyo Grande and two miles north of the community of Nipomo, on both the eastern and western sides of Highway 101.

Agricultural impacts

Implementation of the proposed project would result in the permanent loss of 12.5 acres of Farmland of Statewide Importance, 3 acres of Farmland of Local Importance, and 153 acres of Unique Farmland, including 113 acres of productive vineyard[1].

Department Comments

The project proposes to place four lots, approximately 1,787 acres, into an agricultural preserve and Williamson Act contract(s) to comply with Section 22.22.150B.8.(a) of the County's Land Use Ordinance. The applicant also proposes to plant approximately 140 acres of vineyard or orchards throughout the project site to replace the vineyards removed for structural development and establishment of proposed buffer zones.

The EIR states, "While these measures would result in protection of agricultural land within the easements and under Williamson Act contracts in perpetuity…" However; it should be noted that Agricultural Preserves and Williamson Act contracts do not run in perpetuity and if either the landowner or the county desires in any year not to renew the preserve or the contract, that party can serve a notice of nonrenewal upon the other party in advance of the annual renewal date[2].

Preparation of the FEIR was completed by SWCA Environmental Consultants and they state, "Establishment of an agricultural/open space conservation easement as required by the Land Use Ordinance (LUO), and replanting of vineyards within the project site (as proposed by the applicant) would partially mitigate this loss"[3]. Even though this proposed measure would mitigate for the impact to agricultural land, it is not explicitly stated as a mitigation measure.

Although direct conversion of agricultural land is often an unavoidable impact under CEQA analysis, mitigation measures must be considered. In some cases, the argument is made that mitigation cannot reduce impacts to below the level of significance because agricultural land will still be converted by the project, and, therefore, mitigation is not required. However, reduction to a level below significance is not a criterion for mitigation under CEQA. Rather, the criterion is feasible mitigation that lessens a

[1] Laetitia Agricultural Cluster Subdivision Tentative Tract Map and Conditional Use Permit, Final Environmental Impact Report and Appendices, Agricultural Resources, VB-16.
[2] Government Code § 51236 & § 51245.
[3] Laetitia Agricultural Cluster Subdivision Tentative Tract Map and Conditional Use Permit, Final Environmental Impact Report and Appendices, Agricultural Resources, VB-24-25.

project's impacts. Regardless of whether the impact can be fully mitigated, the proposed easements would lessen the impact and should be listed as mitigation measures pursuant to GC §15126.4(a)(1).

A Statement of Overriding Considerations is not a substitute for the requirement to prepare findings[4]. Therefore, all mitigation measures that are potentially feasible should be included in the Mitigation and Monitoring Program. A measure brought to the attention of the lead agency should not be left out unless it is infeasible based on its elements.

Mitigation Measures

The conversion of agricultural land represents a permanent reduction in the State's agricultural land resources. As such, the Department advises the use of permanent agricultural conservation easements on land of at least equal quality and size as partial compensation for the direct loss of agricultural land.

Conservation easements will protect a portion of those remaining land resources and lessen project impacts in accordance with CEQA Guideline §15370. The Department highlights this measure because of its acceptance and use by lead agencies as an appropriate mitigation measure under CEQA and because it follows an established rationale similar to that of wildlife habitat mitigation.

Mitigation via agricultural conservation easements can be implemented by at least two alternative approaches: the outright purchase of easements or the donation of mitigation fees to a local, regional, or statewide organization or agency whose purpose includes the acquisition and stewardship of agricultural conservation easements. The conversion of agricultural land should be deemed an impact of at least regional significance. Hence, the search for replacement lands should not be limited strictly to lands within the project's surrounding area.

One source that has proven helpful for regional and statewide agricultural mitigation banks is the California Council of Land Trusts, which can be found at:

http://www.calandtrusts.org

The California Council of Land Trusts deals with all types of mitigation banks. It is suggested that the County contact them to get an understanding of the fees associated with mitigation banking and the options available.

Another source is the Division's California Farmland Conservancy Program (CFCP), which has participated in bringing about conservation easements throughout the State of California involving many California land trusts. Of course, the use of conservation

[4] Government Code § 15091(f)

easements is only one form of mitigation that should be considered. Any other feasible mitigation measures should also be considered.

Thank you for giving us the opportunity to comment on the FEIR for the Laetitia Agricultural Cluster Subdivision Tentative Tract Map project. Please provide this Department with notices of any future hearing dates as well as any staff reports pertaining to this project. If you have any questions regarding our comments, please contact Farl Grundy, Environmental Planner at (916) 324-7347 or via email at Farl.Grundy@conservation.ca.gov.

Sincerely,

Molly A. Penberth, Manager
Division of Land Resource Protection
Conservation Support Unit

cc: State Clearinghouse

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION
50 HIGUERA STREET
SAN LUIS OBISPO, CA 93401-5415
PHONE (805) 549-3111
TTY 711
http://www.dot.ca.gov/dist05/

Serious drought,
Help save water!

June 8, 2015

Mr. Ken Topping, Chair
San Luis Obispo County Planning Commission
976 Osos St, Rm 300
San Luis Obispo CA 93408-2040

SLO 101 PM 9.66
SCH 2005041094

LAETITIA AGRICULTURAL CLUSTER SUBDIVISION FINAL ENVIRONMENTAL IMPACT REPORT

Dear Mr. Topping:

The California Department of Transportation (Caltrans) works in partnership to fulfill its mission to provide a safe, sustainable, integrated and efficient transportation system. As the local land use authority, San Luis Obispo County is a critical partner with a shared responsibility to support sustainable, livable development and to promote the safety and health of its residents and the public.

US 101 is the principle north-south interregional travel corridor on the central coast and the backbone for the economic well-being and quality of life of the region. The *US 101 Transportation Concept Report* is the Department's long range plan for the corridor that analyzes current and future conditions and recommends strategies to support a safe and efficient system into the future. The long range strategy for US101 is to upgrade the facility to full access control with grade-separated connections to the local road network. The principle behind access control is to reduce conflict points between turning vehicles and through traffic created by at-grade connections and median openings.

The Final Environmental Impact Report states the at-grade access to US 101 proposed with this project presents significant, adverse, and unavoidable impacts. Caltrans agrees that the proposed access is significant and adverse but disagrees that it is unavoidable. Since 2008, Caltrans has articulated concerns about intensification of use at the US 101/winery and tasting room driveway. For public safety and to preserve the integrity of the State Highway, we request that the county deny any access to the existing private driveway for this development.

We offer the following information for your consideration:

- The historic access at this location has been to support agricultural uses. The subsequent Caltrans encroachment permit granted to this site (March 1984, Pressoir-Deutz Winery) was for a winery and tasting room, an ancillary agricultural use. Any change or intensification of use, as with the proposed development, is inconsistent with the historic use and the 1984 permit.

- Emergency access requirements for the proposed development were discussed with CALFIRE together with county and Caltrans staff. This discussion clarified that there is

no expectation that the existing driveway be used to meet this requirement. Please reference Caltrans' letter to your staff dated May 9, 2014 addressing this subject.

- All trips accessing US 101 from this development should be directed to a grade-separated facility, such as the Los Berros Road Interchange via the local road system. This type of mitigation would avoid the significant adverse impact referenced above and would be consistent with the CEQA Guidelines, 15021 (a).

Allowing for any additional use of the existing driveway beyond its present permitted use would be ill-advised. As a partner promoting the long term safety and sustainability of communities and the transportation system, we urge the county to fully mitigate all transportation impacts of the proposed project. Thank you for giving this careful consideration in your decision making process.

Sincerely,

AILEEN K. LOE
Deputy District Director
Planning and Local Assistance

c: Lynn Compton, 4th District County Supervisor
James A. Bergman, County Planning Director
Brian Pedrotti, County Planner
Ronald L. De Carli, SLOCOG Executive Director

Laetitia Reserve hearing
Gary Vavrina to: bpedrotti 07/29/2015 09:57 AM

From: Gary Vavrina <garypv@gmail.com>
To: bpedrotti@co.slo.ca.us
History: This message has been replied to.

Mr. Pedrotti:

With regards to the upcoming county supervisors hearing on the proposed Janneck, Limited, agricultural cluster subdivision, scheduled for August 13, I understand there will be a public comment period allowing constituents to air their concerns related to the proposed project.

I am a resident of 530 Sycamore Creek Ln, Nipomo, CA, of which my residential parcel lies directly across the road (Upper Los Berros Rd) from the proposed Laetitia Reserve Project association headquarters/club house/swimming pool, etc. AND the sole entry/egress into the project. There has been zero regard throughout the study as to the residents living on Sycamore Creek Ln as it relates to: noise pollution; air quality issues; light pollution due to the projected site for the subdivision headquarters/club house/entry gate into the subdivision. ZERO regard!

I respectfully request to have my name listed as one of the public commentors at the upcoming meeting on August 13th. Please advise as to my being on the list.

Respectfully,

Gary P Vavrina